STATUTORY INSTRUMENTS

1971 No. 383

MERCHANT SHIPPING

The Merchant Shipping (Tonnage) (Overseas Territories) Order 1971

Made - - - -	11*th March* 1971
Laid before Parliament	17*th March* 1971
Coming into Operation	18*th March* 1971

At the Court at Buckingham Palace, the 11th day of March 1971

Present,

The Queen's Most Excellent Majesty in Council

Her Majesty, in exercise of the powers conferred upon Her by section 6 of the Merchant Shipping Act 1965(a) and 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.—(1) This Order may be cited as the Merchant Shipping (Tonnage) (Overseas Territories) Order 1971.

(2) This Order shall come into operation on 18th March 1971.

2.—(1) In this Order, except in so far as the context otherwise requires:——

"the Act" or "this Act" means, in relation to any of the territories mentioned in Schedule 2 to this Order, the Merchant Shipping Act 1965 as extended to that territory;

"Governor" means the Governor of the territory and includes any person or persons administering the government of the territory;

"the principal Act" means the Merchant Shipping Act 1894(b);

"the territory" means, in relation to any of the territories mentioned in Schedule 2 to this Order, that territory.

(2) If under the law in force in the territory another authority has been substituted for the Exchequer as respects that territory in section 83 of the principal Act, the reference to the Exchequer in section 1(4) of the Act shall be construed in relation to that territory as a reference to such substituted authority; and if under such law another authority has been substituted for the Board of Trade as respects the territory in section 84 of the principal Act, the reference to the Board of Trade in item 1 in Schedule 1 to the Act shall be construed in relation to that territory as a reference to such substituted authority.

(3) The Interpretation Act 1889(c) shall apply, with the necessary adaptations, for the purpose of interpreting this Order and otherwise in relation thereto as it applies for the purpose of interpreting, and in relation to, Acts of Parliament.

(a) 1965 c. 47. (b) 1894 c. 60. (c) 1889 c. 63.

3. The provisions of sections 1, 7 and 8(2) and (4) of, and Schedules 1 and 2 to, the Merchant Shipping Act 1965, modified and adapted as in Schedule 1 to this Order, shall extend to the territories mentioned in Schedule 2 to this Order.

4. The Merchant Shipping (Colonies etc.) Tonnage Measurement Order 1956(a) is hereby revoked.

W. G. Agnew

Article 3

SCHEDULE 1 TO THE ORDER

Tonnage regulations.

1.—(1) The tonnage of any ship to be registered under Part I of the principal Act shall be ascertained in accordance with regulations made by the Governor; and those regulations shall, as respects anything done after the commencement of this Act, be taken to be the provisions referred to in the principal Act as the tonnage regulations of that Act.

(2) Regulations under this section—

(*a*) may make different provision for different descriptions of ships or for the same description of ships in different circumstances;

(*b*) may make any provision thereof dependent on compliance with such conditions, to be evidenced in such manner, as may be specified in the regulations;

(*c*) may provide for the ascertainment of any space to be taken into account for the purposes of section 85 of the principal Act (payment of dues where goods carried in spaces not forming part of registered tonnage) and may exempt any space from being taken into account for those purposes; and

(*d*) 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 one hundred pounds 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 provide for the measurement and survey of ships to be undertaken, in such circumstances as may be specified in the regulations and notwithstanding sections 6 and 86 of the principal Act, by persons appointed by such organisations as may be authorised in that behalf by the Governor; and so much of section 83 of the principal Act and section 1 of the Merchant Shipping (Mercantile Marine Fund) Act 1898(b) as requires the payment of fees into the Exchequer shall not apply to fees payable under the said section 83 to persons appointed in pursuance of this subsection.

(5) Regulations under this section may make provision for the alteration (notwithstanding section 82 of the principal Act) of the particulars relating to the registered tonnage of any ship registered before the coming into operation of the regulations.

(a) S.I. 1956/1002 (1956 I, p. 1208). (b) 1898 c. 44.

(6) Regulations under this section may provide for the issue of documents certifying the registered tonnage of any ship or the tonnage which is to be taken for any purpose specified in the regulations as the tonnage of a ship not registered in the territory.

(7) For the purposes of this Act and without prejudice to the generality of the powers therein contained, any tonnage regulations made (whether before or after the coming into operation of this Act in the territory) by the Board of Trade or the Secretary of State under the provisions of this Act as in force in the United Kingdom shall, in so far as they relate to ships to be registered under Part I of the principal Act, and unless varied by or repugnant to regulations made by the Governor under this Act as extended to the territory, be deemed to be regulations made under this Act. Such regulations shall be read subject to the modifications set out in the next following subsection and to any further modifications which may be made thereto by the Governor.

(8) The modifications hereinbefore referred to are that, except where the context otherwise requires, references—

(*a*) to the United Kingdom shall be taken as references to the territory;

(*b*) to the Board of Trade, the Board or the Secretary of State shall be taken as references to the Governor;

(*c*) to any Act (including this Act) or to any rules or regulations made under such an Act shall be taken as references to that Act, or, as the case may be, those rules or regulations, as in force in the territory.

Amendments and repeals.

7.—(1) The enactments mentioned in Schedule 1 to this Act, in their application to the territory, and to ships registered in the territory shall have effect subject to the amendments specified in relation thereto in the second column of that Schedule, being minor amendments and amendments consequential on the foregoing provisions of this Act.

(2) The enactments mentioned in Schedule 2 to this Act, in their application to the territory, and to ships registered in the territory are hereby repealed to the extent specified in the third column of that Schedule.

Construction and commencement.

8.—(2) This Act shall be construed as one with the Merchant Shipping Acts 1894 to 1964 as in force in the territory.

(4) This Act shall come into operation on such day as the Governor may by order appoint.

SCHEDULES TO THE ACT

SCHEDULE 1

Section 7(1).

MINOR AND CONSEQUENTIAL AMENDMENTS

Enactment amended	Amendment
The Merchant Shipping Act 1894 57 & 58 Vict. c. 60.	In section 84, there shall be added at the end of subsection (1) the words " and any space shown by the certificate of registry or other national papers of any such ship as deducted from the tonnage shall, where a similar deduction in the case of a British ship depends on compliance with any conditions or on the compliance being evidenced in any manner, be deemed to comply with those conditions and to be so evidenced, unless a surveyor of ships certifies to the Board of

Enactment amended	Amendment
The Merchant Shipping Act 1894 57 & 58 Vict. c. 60—*cont.*	Trade that the construction and the equipment of the ship as respects that space do not come up to the standard which would be required if the ship were a British ship registered in the United Kingdom ". In section 85, in subsection (1) after the words " forming the ship's registered tonnage " there shall be inserted the words " and not exempted by regulations under the Merchant Shipping Act 1965 ", and in subsection (3) for the words from " in manner directed " to " this Act " there shall be substituted the words " in accordance with regulations made under the Merchant Shipping Act 1965 ". At the end of Part II of Schedule 1 there shall be added the words " Bill of sale ".

Section 7(2).

SCHEDULE 2

ENACTMENTS REPEALED

Chapter	Short Title	Extent of Repeal
57 & 58 Vict. c. 60.	The Merchant Shipping Act 1894.	In section 24(2) the words from " and shall be in " to " permit ". Sections 77 to 81. In section 84(1) the words from " and any space " to the end of the subsection. In Schedule 1, in Part I, Form A—Bill of Sale. Schedule 2. In Schedule 6, paragraphs (2) to (5).
6 Edw. 7. c. 48.	The Merchant Shipping Act 1906.	Sections 54 and 55.
7 Edw. 7. c. 52.	The Merchant Shipping Act 1907.	The whole Act.

Article 3

SCHEDULE 2 TO THE ORDER

Bahamas.
Bermuda.
British Honduras.
British Solomon Islands Protectorate.
Cayman Islands.
Falkland Islands (Colony and Dependencies).
Gibraltar.
Gilbert and Ellice Islands Colony.
Seychelles.
St. Helena and its Dependencies.
Turks and Caicos Islands.
Virgin Islands.

EXPLANATORY NOTE

(This Note is not part of the Order.)

This Order extends those provisions of the Merchant Shipping Act 1965 which relate to the ascertainment of the tonnage of ships, subject to exceptions, adaptations and modifications, to the territories specified in Schedule 2 thereto.

Tonnage Regulations may be made by the Governor, but any regulations made by the Board of Trade or the Secretary of State under the Act, in so far as they relate to ships to be registered under Part I of the Merchant Shipping Act 1894, are deemed to be such Regulations unless varied by or repugnant to regulations made by the Governor.