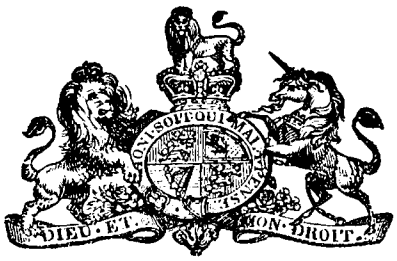
SUPPLIED FOR THE PUBLIC SERVICE



CHAPTER 53.

An Act to amend the law relating to Sea Fishing Boats in Scotland. [25th June 1886.]

A.D. 1886.

WHEREAS it is expedient to amend the Sea Fisheries Act, 1868, and to make further provision regarding sea fishing boats in Scotland: 31 & 32 Vict. c. 45.

Be it therefore enacted by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:

Short title.

1. This Act may be cited as the Sea Fishing Boats (Scotland) Act, 1886, and shall be construed as one with the Sea Fisheries Act, 1868, and with any Orders in Council made under the said Sea Fisheries Act, 1868, and in force for the time.

Application of Act. 31 & 32 Vict. c. 45.

2. This Act shall apply to all sea fishing boats as defined in the said Sea Fisheries Act, 1868, and the Orders in Council following upon it, which are or may hereafter be engaged in the prosecution of the sea fishing industry in Scotland.

Property in a boat divisible into shares.

3. The property in a sea fishing boat (herein-after called a "boat") shall for the purposes of this Act be divided into sixteen shares, and not more than sixteen persons shall be entitled to be registered at the same time as owners of any one boat; but this shall not affect the beneficial right or title of any number of persons or of any company represented by or claiming under or through any registered owner or joint owner.

Joint ownership in a boat.

4. No person shall be entitled to be registered as owner of any fractional part of a share in a boat; but any number of persons, not exceeding five, may be registered as joint owners of one boat or of a share or shares therein.

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Purchase and sale of boat.

5. A boat registered in a register of sea fishing boats under the Sea Fisheries Act, 1868, and the Orders in Council following upon it, or any share thereof, shall be transferred by bill of sale in the form contained in Schedule A. hereto annexed, or as near thereto as circumstances permit; but in order to the completion of a valid title in the person of a purchaser or other transferee, it shall be necessary that such bill of sale be intimated and produced to the collector of customs of the port at which the boat is registered, and that it shall be recorded by him in the register of sea fishing boats kept at the principal office of customs there in terms of the said Orders in Council and in the form contained in Schedule C. hereto annexed.

Loan on security of boat.

6. A boat registered as above or any shares or share therein may be made a security for a loan or other valuable consideration, and the instrument creating the security, herein-after termed a "mortgage," shall be in the form contained in Schedule B. (1) hereto annexed, or as near thereto as circumstances permit; and on the production of such instrument the collector of customs of the port at which the boat is registered shall record the same in the register kept there according to the form contained in Schedule C. hereto annexed, and in the column thereof headed "Mortgages."

Recording of mortgage in register.

7. Every such mortgage shall be recorded by the collector in the order of time in which the same is produced to him for the purpose, and the collector shall, by memorandum under his hand, notify on the mortgage that the same has been recorded by him, stating the date and hour of such record, and each such mortgage shall have priority according to the time at which it is so recorded.

Discharge of mortgage.

8. Whenever any recorded mortgage has been discharged in whole or in part, the collector shall, on the production of the mortgage with a discharge for the whole amount of the loan or for a portion of it indorsed thereon duly signed and attested in the form contained in Schedule B. (2) hereto annexed, or as near thereto as circumstances permit, make an entry in the register to the effect that such mortgage has been discharged in whole or in part.

Right of mortgagee.

9. The holder of any such mortgage shall not be deemed to be the owner of the boat or of any share therein except in so far as may be necessary for making such boat or share available as a security for his debt; and every mortgagee whose name is duly recorded on the register shall have power to sell the boat or shares or share in respect of which his mortgage is recorded and to give effectual receipts for the purchase money, but if more persons than one are registered as mortgagees of the same boat or

share no subsequent mortgagee shall sell such boat or share without the concurrence of every prior mortgagee.

Right of mortgagee when owner bankrupt.

10. No mortgagee whose mortgage, or, failing concurrence, without payment or consignation of the amount of any prior mortgage, is recorded on the register shall be affected by the bankruptcy of the owner after the date of the record of such mortgage, and such mortgagee shall have a preference over any right, claim, or interest in such boat or any share thereof which may belong to the creditors or assignees of the bankrupt.

Transference of mortgage.

11. A recorded mortgage of any boat or shares or share in a boat may be transferred to any person by an endorsement on the same by the mortgagee duly signed and attested in the form contained in Schedule B. (3) annexed, or as near thereto as circumstances permit, and on the production of such mortgage with the transfer endorsed thereon, the collector shall enter in the registry the name of the transferee as mortgagee, and shall by memorandum under his hand record on the mortgage that the same has been recorded by him, stating the time of such record.

Transmission of mortgagee's right otherwise than by transfer.

12. If the interest of any mortgagee is transmitted in consequence of marriage, death, bankruptcy, or insolvency, or by any lawful means other than by a transfer according to the provisions of the preceding section, the name of the person or persons entitled under such transmission shall, upon a written declaration thereof signed and attested by two witnesses being produced to the satisfaction of the collector, be entered in the registry as mortgagee or mortgagees of the boat or share thereof in respect of which such transmission has taken place.

Assistance from Fishery Board.

13. The Fishery Board for Scotland shall give every assistance in carrying out the provisions of this Act, and where necessary shall employ their officers to facilitate its execution.

Power to issue Order in Council.

14. It shall be lawful for Her Majesty by Order in Council from time to time to make regulations for carrying out, enforcing, and giving effect to the provisions of this Act, and every such Order shall be of the same force as if it had been enacted in this Act.

Transfer of mortgages.

15. No transfer, mortgage, or transmission of any boat shall be registered under this Act unless and until there shall have been received by the collector of customs a certificate under the hand of the Registrar General of Shipping and Seamen that such boat has not been registered as a ship under the provisions of the Merchant Shipping Act, 1854, and no boat shall be registered as a ship under

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the Merchant Shipping Act, 1854, unless and until there shall have been received by the Registrar to whom application to register such boat is made a certificate under the hand of the Secretary of the Fishery Board for Scotland, that no transfer, mortgage, or transmission of such boat has been registered under this Act.

Application of Act.

16. This Act shall apply only to Scotland.

Definition.

17. The term "boat" shall include ropes, sails, oars, and the other appurtenances required for navigation, but shall not include nets, lines, or other fishing gear.

The expression "collector of customs" shall include the principal officer of the port.

SCHEDULES.

SCHEDULE A.

BILL OF SALE.

*"I" or "we."

†"me" or "us."

‡"me" or "us."

§"I" or "we."

‖"myself and my" or "ourselves and our."

¶"I" or "we."

**If there be any subsisting mortgage, add "save as appears by the registry of the said boat."

††"I" or "we."

‡‡"My" or "our."

§§Here name and designate the two witnesses.

*

in consideration of the sum of , paid to† by the receipt whereof is hereby acknowledged, transfer shares in the fishing boat named the , of the port of , registered No. , belonging to‡ , to the said .

Further§ the said for‖ heirs and executors, hereby declare that¶ ha power to transfer in manner aforesaid the said shares, and that the same are free from incumbrances.**

In witness whereof†† have hereunto subscribed‡‡ name this day of one thousand eight hundred and in the presence of§§

A.B.

C.D., witness.

E.F., witness.

SCHEDULE B.

(1.) *Mortgage.*

* the undersigned in consideration of this day lent to† by do hereby bind‡ and§ heirs or executors to pay to the said the said sum of together with interest thereon at the rate of per cent per annum on the day of next; and secondly that if the said principal sum is not paid on the said day* or § heirs or executors, will, so long as the same or any part thereof remains unpaid, pay to the said interest on the whole or such part thereof as may for the time being remain unpaid, at the rate of per cent. per annum, by equal half-yearly payments on the day of and day of in every year; and in security thereof * hereby mortgage to the said shares in the fishing boat named the , of the port of , registered No. , belonging to † ; and * declare that this mortgage is made on condition that the power of sale which by the Sea Fishing Boats (Scotland) Act, 1886, is vested in the said shall not be exercised until the said‖ day of . Lastly,* for ‡ and § heirs and executors, hereby declare that * ha power to mortgage in manner aforesaid the above-mentioned shares, and that the same are free from incumbrances.¶

In witness whereof * ha hereto subscribed § name this day of , one thousand eight hundred and in the presence of**

A.B.

C.D., witness.
E.F., witness.

* "I" or "we."
† "Me" or "us."
‡ "Myself" or "ourselves."
§ "My" or "our."

‖ Insert the day fixed for payment of principal as above.

¶ If any prior incumbrance add "save as appears by the registry of the said boat."

** Here name and designate the two witnesses.

(2.) *Discharge.*

Received the sum of in discharge of the within written security. Dated at this day of 18 .

C.D., witness.
E.F., witness.

A.B.

(3.) *Transfer.*

I [*or* We] in consideration of this day paid to me [*or* us] by hereby transfer to the benefit of the within security.

In witness whereof I [*or* we] have hereunto subscribed my [*or* our] name this day of one thousand eight hundred and in the presence of [*here name and designate the two witnesses*].

A.B.

C.D., witness.
E.F., witness.

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SCHEDULE C.

PORT OF _____

REGISTRY of SEA FISHING BOATS engaged in FISHING.

Date of Registry.									
Name of Boat.									
Port or Place to which belonging.									
Name of Owner or Owners and Record of Changes of Ownership.									
Name of Master.									
Description	Of Boat, Propelling Power, Rig, Sails, &c.								
	Mode of Fishing.								
Registered No.	1st Class.								
	2nd Class.								
	3rd Class.								
Size.	Tonnage.								
	Length of Keel.								
Number of Crew.	Men.								
	Boys.								
Mortgages.	Whether mortgaged and to what extent, Names of Mortgagees, and Dates and Particulars of Mortgage.								
REMARKS.									

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