

SCHEDULES

SCHEDULE 1

Section 9.

AMENDMENTS OF MERCHANT SHIPPING ACT 1995 RELATING TO INSPECTION AND DETENTION OF SHIPS

Meaning of “dangerously unsafe ship”

- 1 (1) Section 94 of the 1995 Act (meaning of “dangerously unsafe ship”) is amended as follows.
- (2) In subsection (1), after “ship”, where first occurring, there is inserted “in port”.
- (3) After subsection (1) there is inserted—
- “(1A) For the purposes of those sections a ship at sea is “dangerously unsafe” if, having regard to the nature of the service for which it is being used or is intended, the ship is, by reason of the matters mentioned in subsection (2) below, either—
- (a) unfit to remain at sea without serious danger to human life, or
 - (b) unfit to go on a voyage without serious danger to human life.”

Power to detain dangerously unsafe ship

- 2 (1) Section 95 of the 1995 Act (power to detain dangerously unsafe ship) is amended as follows.
- (2) For subsection (1) there is substituted—
- “(1) Where a ship which is—
- (a) in a port in the United Kingdom, or
 - (b) at sea in United Kingdom waters,
- appears to a relevant inspector to be a dangerously unsafe ship, the ship may be detained.”
- (3) At the beginning of subsection (2) there is inserted “Subject to subsection (2A) below”, and after that subsection there is inserted—
- “(2A) The power of detention conferred by subsection (1)(b) is not exercisable in relation to a qualifying foreign ship while the ship is exercising—
- (a) the right of innocent passage, or
 - (b) the right of transit passage through straits used for international navigation.”
- (4) In subsection (3)(c), for “prohibit the ship from going to sea” there is substituted “require the ship to comply with the terms of the notice”.

Fishing vessel without appropriate certificate

- 3 In section 125 of the 1995 Act (prohibition on fishing vessel going to sea without appropriate certificate), in subsection (3) (which confers a power of detention), for “the fishing vessel may be detained” there is substituted “the fishing vessel, if in United Kingdom waters, may be detained”.

Power to inspect ships and their equipment

- 4 (1) Section 258 of the 1995 Act (powers to inspect ships and their equipment, etc.) is amended as follows.
- (2) In subsection (1)—
- (a) for the words from the beginning to “Chapter) or” there is substituted “For the purposes of seeing that the provisions of this Act other than sections 131 to 141 and sections 143 to 151 and the provisions of regulations and rules made under this Act (other than those sections) are complied with or”,
 - (b) after “go on board a ship” there is inserted “in the United Kingdom or in United Kingdom waters”, and
 - (c) the words “other than Chapter II of Part VI” and “(other than that Chapter)”, in the second place where they occur, are omitted.
- (3) After subsection (1) there is inserted—
- “(1A) The powers conferred by subsection (1) above are not exercisable in relation to a qualifying foreign ship while the ship is exercising—
- (a) the right of innocent passage, or
 - (b) the right of transit passage through straits used for international navigation.”.

(4) In subsection (2), for “the United Kingdom” there is substituted “United Kingdom waters”.

Enforcing detention of ships

- 5 (1) Section 284 of the 1995 Act (enforcing detention of ship) is amended as follows.
- (2) In subsection (1), for paragraph (b) there is substituted—
- “(b) any officer of a Minister of the Crown or Northern Ireland department who is authorised by the Secretary of State, either generally or in a particular case, to exercise powers under this section.”.
- (3) After subsection (1) there is inserted—
- “(1A) A notice of detention may—
- (a) include a direction that the ship—
 - (i) must remain in a particular place, or
 - (ii) must be moved to a particular anchorage or berth, and
 - (b) if it includes such a direction, may specify circumstances relating to safety or the prevention of pollution in which the master may move his ship from that place, anchorage or berth.”
- (4) For subsection (2) there is substituted—

Status: This is the original version (as it was originally enacted).

“(2) If a ship as respects which notice of detention has been served on the master proceeds to sea, otherwise than in accordance with such a notice, before it is released by a competent authority, the master of the ship shall be guilty of an offence.

(2A) If a ship as respects which notice of detention has been served on the master fails to comply with a direction given under subsection (1A)(a) above, the master of the ship shall be guilty of an offence.

(2B) A person guilty of an offence under subsection (2) or (2A) above shall be liable—

- (a) on summary conviction, to a fine not exceeding £50,000;
- (b) on conviction on indictment, to a fine.”

(5) In subsection (3), after “subsection (2)” there is inserted “or (2A)”.

(6) In subsection (4)—

- (a) after “subsection (2) above” there is inserted “or failing to comply with a direction given under subsection (1A)(a) above”,
- (b) for “takes to sea” there is substituted “carries away without his consent”, and
- (c) in paragraph (i), for “taken to sea” there is substituted “carried away”.

(7) Any reference to section 284 of the 1995 Act, or to provisions of that section—

- (a) in any safety regulations within the meaning of the 1995 Act made before commencement,
- (b) in any Order in Council having effect under section 128 or 129 of the 1995 Act and made before commencement, or
- (c) in any regulations having effect under such an Order and made before commencement,

shall have effect as a reference to section 284, or those provisions, as amended by this paragraph.

(8) In sub-paragraph (7) above “commencement” means the commencement of this paragraph.

Powers of detention under provisions relating to load lines

6 (1) Schedule 3 to the 1995 Act (load lines) is amended as follows.

(2) In paragraph 3 (compliance with load line rules by United Kingdom ships) in sub-paragraph (3)—

- (a) after “sub-paragraph (1) above” there is inserted “proceeds or”, and
- (b) after “sub-paragraph (1)(a) and (b) above” there is inserted “and which is in United Kingdom waters”.

(3) In paragraph 13 (compliance with load line rules by other ships)—

- (a) in sub-paragraph (4)—
 - (i) after “this paragraph” there is inserted “proceeds or”, and
 - (ii) after “sub-paragraphs (1)(a) or (b) above” there is inserted “and which is in United Kingdom waters”, and
- (b) after that sub-paragraph there is inserted—

Status: This is the original version (as it was originally enacted).

“(4A) The power of detention conferred by sub-paragraph (4) above is not exercisable in relation to a qualifying foreign ship while the ship is exercising—

- (a) the right of innocent passage, or
- (b) the right of transit passage through straits used for international navigation.”

(4) In paragraph 17 (inspection)—

- (a) in sub-paragraphs (1) and (2), for “any port in the United Kingdom” there is substituted “United Kingdom waters”, and
- (b) after sub-paragraph (2) there is inserted—

“(2A) No power of inspection conferred by sub-paragraph (1) or (2) above is exercisable in relation to a qualifying foreign ship while the ship is exercising—

- (a) the right of innocent passage, or
- (b) the right of transit passage through straits used for international navigation.”