



# Railways and Transport Safety Act 2003

## 2003 CHAPTER 20

### PART 4

#### SHIPPING: ALCOHOL AND DRUGS

##### *Offences*

#### **78 Professional staff on duty**

- (1) This section applies to—
  - (a) a professional master of a ship,
  - (b) a professional pilot of a ship, and
  - (c) a professional seaman in a ship while on duty.
- (2) A person to whom this section applies commits an offence if his ability to carry out his duties is impaired because of drink or drugs.
- (3) A person to whom this section applies commits an offence if the proportion of alcohol in his breath, blood or urine exceeds the prescribed limit.
- (4) For the purposes of this section a master, pilot or seaman is professional if (and only if) he acts as master, pilot or seaman in the course of a business or employment.
- (5) Where a person is charged with an offence under this section in respect of the effect of a drug on his ability to carry out duties on a fishing vessel, it is a defence for him to show that—
  - (a) he took the drug for a medicinal purpose on, and in accordance with, medical advice, or
  - (b) he took the drug for a medicinal purpose and had no reason to believe that it would impair his ability to carry out his duties.

#### **79 Professional staff off duty**

- (1) This section applies to a professional seaman in a ship at a time when—

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- (a) he is not on duty, but
  - (b) in the event of an emergency he would or might be required by the nature or terms of his engagement or employment to take action to protect the safety of passengers.
- (2) A person to whom this section applies commits an offence if his ability to take the action mentioned in subsection (1)(b) is impaired because of drink or drugs.
- (3) A person to whom this section applies commits an offence if the proportion of alcohol in his breath, blood or urine exceeds the prescribed limit.
- (4) For the purposes of this section a seaman is professional if (and only if) he acts as seaman in the course of a business or employment.
- (5) Where a person is charged with an offence under this section in respect of the effect of a drug on his ability to take action it is a defence for him to show that—
- (a) he took the drug for a medicinal purpose on, and in accordance with, medical advice, or
  - (b) he took the drug for a medicinal purpose and had no reason to believe that it would impair his ability to take the action.

## **80 Non-professionals**

- (1) This section applies to a person who—
- (a) is on board a ship which is under way,
  - (b) is exercising, or purporting or attempting to exercise, a function in connection with the navigation of the ship, and
  - (c) is not a person to whom section 78 or 79 applies.
- (2) A person to whom this section applies commits an offence if his ability to exercise the function mentioned in subsection (1)(b) is impaired because of drink or drugs.
- (3) A person to whom this section applies commits an offence if the proportion of alcohol in his breath, blood or urine exceeds the prescribed limit.
- (4) The Secretary of State may make regulations providing for subsection (3) not to apply in specified circumstances.
- (5) Regulations under subsection (4) may make provision by reference, in particular—
- (a) to the power of a motor;
  - (b) to the size of a ship;
  - (c) to location.

## **81 Prescribed limit**

- (1) The prescribed limit of alcohol for the purposes of this Part is—
- (a) in the case of breath, 35 microgrammes of alcohol in 100 millilitres,
  - (b) in the case of blood, 80 milligrammes of alcohol in 100 millilitres, and
  - (c) in the case of urine, 107 milligrammes of alcohol in 100 millilitres.
- (2) The Secretary of State may make regulations amending subsection (1).

## Enforcement

### 82 Penalty

A person guilty of an offence under this Part shall be liable—

- (a) on conviction on indictment, to imprisonment for a term not exceeding two years, to a fine or to both, or
- (b) on summary conviction, to a fine not exceeding the statutory maximum.

### 83 Specimens, &c.

- (1) The provisions specified in the first column of the table below, with the modifications specified in the third column and any other necessary modifications, shall have effect in relation to an offence under this Part.

| <i>Provision</i>                               | <i>Description</i>                    | <i>Modification</i>  |
|--|---------------------------------------|--|
| <b>Road Traffic Act 1988</b><br><b>(c. 52)</b> |                                       |  |
| Section 6                                      | Power to administer preliminary tests | In place of subsections (2) to (5) the power to require a person to co-operate with a preliminary test shall apply where— <ul style="list-style-type: none"><li>(a) a constable in uniform reasonably suspects that the person is committing an offence under section 78, 79 or 80,</li><li>(b) a constable in uniform reasonably suspects that the person has committed an offence under section 78, 79 or 80 and still has alcohol or a drug in his body or is still under the influence of a drug, or</li><li>(c) an accident occurs owing to the presence of a ship in a public place and a constable reasonably suspects that the person was at the time of the accident a person to whom</li></ul> |

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| <i>Provision</i>  | <i>Description</i>  | <i>Modification</i>  |
|-------------------|---|--|
| Sections 6A to 6E | Preliminary breath test, impairment test, and drug test     | <p>section 78, 79 or 80 applied.</p> <p>In place of sections 6A(2) and (3), 6B(4) and 6C(2), a preliminary breath test, preliminary impairment test or preliminary drug test may be administered by a constable—</p> <ul style="list-style-type: none"> <li>(a) at or near the place where the requirement to co-operate with the test is imposed, or</li> <li>(b) at a police station specified by the constable.</li> </ul> <p>In section 6B(3) a reference to unfitness to drive shall be treated as a reference to having an impaired ability, because of drink or drugs, to do anything specified in section 78(2), 79(2) or 80(2).</p> |
| Section 7         | Provision of specimen                                       | <p>In subsection (1) the reference to an offence under section 3A, 4 or 5 of the 1988 Act shall be treated as a reference to an offence under section 78, 79 or 80 of this Act.</p> <p>In subsection (3)(c) the reference to an offence under section 3A or 4 of the 1988 Act shall be treated as a reference to an offence under section 78(2), 79(2) or 80(2) of this Act.</p>   |
| Section 7A        | Specimen of blood taken from person incapable of consenting |  |
| Section 8         | Choice of specimen of breath                                |  |
| Section 9         | Protection for hospital patient                             |  |

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| <i>Provision</i>                               | <i>Description</i>                              | <i>Modification</i>   |
|--|---|---|
| Section 10                                     | Detention of person affected by alcohol or drug | <p>In subsection (1)—</p> <p>(a) the reference to driving or attempting to drive a mechanically propelled vehicle on a road shall be treated as a reference to exercising a function in connection with the navigation of a ship, and</p> <p>(b) the reference to an offence under section 4 or 5 of the 1988 Act shall be treated as a reference to an offence under section 78, 79 or 80 of this Act.</p> <p>In subsection (2) the reference to driving a mechanically propelled vehicle shall be treated as a reference to exercising a function in connection with the navigation of a ship.</p> <p>In subsection (3) the reference to driving properly shall be treated as a reference to exercising a function in connection with the navigation of a ship.</p> |
| Section 11                                     | Interpretation                                  | For the definition of “the prescribed limit” there shall be substituted the definition given in this Part.  |
| <b>Road Traffic Offenders Act 1988 (c. 53)</b> |   |   |
| Section 15                                     | Use of specimens                                | In subsection (1), the reference to an offence under section 3A, 4 or 5 of the Road Traffic Act 1988 shall be treated as a reference to an offence  |

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| <i>Provision</i> | <i>Description</i>   | <i>Modification</i>   |
|------------------|----------------------|---|
|                  |                      | under section 78, 79 or 80 of this Act.   |
|                  |                      | The relevant time for the consumption of alcohol for the purpose of subsection (3)(a) shall be before providing the specimen and after the time of the alleged offence. |
|                  |                      | In subsection (3)(b) the reference to driving shall be treated as a reference to exercising a function in connection with the navigation of a ship.                     |
| Section 16       | Documentary evidence |   |

- (2) The Secretary of State may by regulations amend the table in subsection (1) so as—
- (a) to add a provision relating to an offence which concerns alcohol or drugs in relation to road traffic;
  - (b) to add, remove or amend a modification (whether or not in connection with an amendment of a provision specified in the table).
- (3) For the purpose of the application by subsection (1) of a provision listed in the table in that subsection—
- (a) the provision shall extend to the whole of the United Kingdom, and
  - (b) a reference to the provision shall be treated, unless the context otherwise requires, as including a reference to the provision as applied.

#### **84 Detention pending arrival of police**

- (1) A marine official may detain a ship if he reasonably suspects that a person who is or may be on board the ship—
- (a) is committing an offence under section 78, 79 or 80, or
  - (b) has committed an offence under section 78, 79 or 80.
- (2) The power of detention under subsection (1)—
- (a) is conditional upon the marine official making a request, either before the detention or as soon as possible after its commencement, for a constable in uniform to attend, and
  - (b) lapses when a constable in uniform has decided whether or not to exercise a power by virtue of section 83 and has informed the marine official of his decision.
- (3) In this section “marine official” means—
- (a) a harbour master, or an assistant of a harbour master, appointed by a harbour authority,

- (b) a person listed in section 284(1)(a) to (d) of the Merchant Shipping Act 1995 (c. 21)(detention of ship), and
  - (c) a person falling within a class designated by order of the Secretary of State.
- (4) In construing section 284(1)(b) of the Merchant Shipping Act 1995 (detention by person authorised by Secretary of State) for the purpose of subsection (3)(b) above, the reference to authorisation to exercise powers under that section shall be taken as a reference—
- (a) to general authorisation to exercise powers under that section, and
  - (b) to general or particular authorisation to exercise powers under this section.

## **85 Arrest without warrant**

- (1) A constable may arrest a person without a warrant if the constable reasonably suspects that the person—
- (a) is committing an offence under section 78(2), 79(2) or 80(2), or
  - (b) has committed one of those offences and is still under the influence of drink or drugs.
- (2) But a person may not be arrested under this section while he is at a hospital as a patient.
- (3) In subsection (2) “hospital” means an institution which—
- (a) provides medical or surgical treatment for in-patients or out-patients, and
  - (b) is not on a ship.
- (4) Arrest under this section shall be treated as arrest for an offence for the purposes of—
- (a) Part IV of the Police and Criminal Evidence Act 1984 (c. 60) (detention), and
  - (b) Part V of the Police and Criminal Evidence (Northern Ireland) Order 1989 (S.I. 1989/1341 (N.I. 12)) (detention).

## **86 Right of entry**

- (1) A constable in uniform may board a ship if he reasonably suspects that he may wish to exercise a power by virtue of section 83 or under section 85 in respect of a person who is or may be on the ship.
- (2) A constable in uniform may enter any place if he reasonably suspects that he may wish to exercise a power by virtue of section 83 or under section 85 in respect of a person who is or may be in that place.
- (3) For the purposes of boarding a ship or entering a place under this section a constable—
- (a) may use reasonable force;
  - (b) may be accompanied by one or more persons.

### *General*

## **87 Consequential repeal**

Section 117 of the Merchant Shipping Act 1995 (c. 21) (drunkenness on duty) shall cease to have effect.

## 88 Orders and regulations

- (1) An order or regulations under this Part may—
  - (a) make transitional, supplemental and incidental provision;
  - (b) make provision generally or for specified purposes only;
  - (c) make different provision for different purposes.
- (2) The power under section 84(3)(c) for the Secretary of State to designate a class of person includes a power for him to designate—
  - (a) himself, or
  - (b) one or more persons employed in his Department.
- (3) An order or regulations under this Part shall be made by statutory instrument.
- (4) Regulations under this Part shall not be made unless a draft has been laid before and approved by resolution of each House of Parliament.
- (5) An order under section 84(3)(c) shall be subject to annulment in pursuance of a resolution of either House of Parliament.
- (6) Before making regulations under section 81(2) the Secretary of State shall consult such organisations as he thinks fit.

## 89 Interpretation

- (1) In this Part—
  - (a) “ship” includes every description of vessel used in navigation, and
  - (b) a reference to the navigation of a vessel includes a reference to the control or direction, or participation in the control or direction, of the course of a vessel.
- (2) Section 313 of the Merchant Shipping Act 1995 (c. 21) (interpretation) shall apply to the following expressions used in this Part—
  - (a) fishing vessel,
  - (b) foreign ship,
  - (c) harbour authority,
  - (d) master,
  - (e) registered,
  - (f) seaman,
  - (g) United Kingdom ship, and
  - (h) United Kingdom waters.
- (3) In this Part “pilot” has the meaning given by section 31(1) of the Pilotage Act 1987 (c. 21) (interpretation).
- (4) Regulations under section 267(4)(a) of the Merchant Shipping Act 1995 (power to define “accident” for the purposes of provisions about marine accident investigations) shall, so far as is practicable, apply to the word “accident” as used in relation to this Part.
- (5) In this Part “drug” includes any intoxicant other than alcohol.



## **90 Crown application, &c.**

- (1) This Part shall not apply to a member of Her Majesty's naval forces, military forces or air forces, within the meaning given by section 225(1) of the Army Act 1955 (c. 18), while acting in the course of his duties.
- (2) Subject to subsection (1), this Part shall apply to a person in the service of the Crown.
- (3) But section 84 shall not have effect in relation to a ship which—
  - (a) is being used for a purpose of Her Majesty's forces, or
  - (b) forms part of the Royal Fleet Auxiliary Service.
- (4) This Part shall not apply to—
  - (a) a member of a visiting force, within the meaning which that expression has in section 3 of the Visiting Forces Act 1952 (c. 67) by virtue of section 12(1) of that Act, while acting in the course of his duties, or
  - (b) a member of a civilian component of a visiting force, within that meaning, while acting in the course of his duties.

## **91 Territorial application**

- (1) This Part shall have effect in relation to—
  - (a) United Kingdom ships,
  - (b) foreign ships in United Kingdom waters, and
  - (c) un-registered ships in United Kingdom waters.
- (2) Section 86 shall not extend to Scotland.
- (3) Subsection (2) does not affect any rule of law or enactment concerning the right of a constable in Scotland to board a ship or enter any place for any purpose.