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## STATUTORY INSTRUMENTS

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### 1992 No. 3

## The Merchant Shipping (Radio Installations) Regulations 1992

### PART IV ENFORCEMENT

#### Power to detain

**46.** In any case where a ship to which these Regulations apply, does not comply with the requirements of these Regulations, the ship shall be liable to be detained and section 692 of the Merchant Shipping Act 1894<sup>(1)</sup> (which relates to the detention of a ship) shall have effect in relation to the ship, subject to the modification that for the words “this Act” wherever they appear, there shall be substituted “the Merchant Shipping (Radio Installations) Regulations 1992”: provided that a ship shall not be detained in a port where repair facilities are not readily available by reason of malfunction of the equipment for providing general radiocommunications, provided the ship is capable of performing all distress and safety functions.

#### Prohibition on proceeding to sea without appropriate certificates

**47.—(1)** No United Kingdom ship, being a cargo ship to which Part II of these Regulations applies, shall proceed to sea or otherwise enter or be at sea in any sea area unless there is in force in respect of the ship an appropriate radio certificate issued under section 9 of the 1949 Act, showing that the ship complies with (or as the case may be, is exempt from) such of the requirements of the Safety Convention to which Part II of these Regulations gives effect as are applicable to a ship which goes to sea in that sea area or in that sea area and others.

(2) No United Kingdom ship, being a cargo ship to which Part III of these Regulations applies, shall proceed to sea unless there is in force in respect of the ship an appropriate radio certificate issued under section 9 of the 1949 Act, showing that the ship complies with (or as the case may be, is exempt from) such of the requirements of the Safety Convention to which Part III of these Regulations gives effect as are applicable to the ship, having regard to the voyage on which it is about to proceed.

(3) The Master of every United Kingdom ship, being a cargo ship to which these Regulations apply, shall produce to the officer of customs from whom a clearance is demanded for an international voyage an appropriate radio certificate; and a clearance shall not be granted, until the certificate is so produced.

(4) In this regulation “appropriate radio certificate” means a radio certificate issued under subsection (1) of section 9 of the 1949 Act, an exemption certificate and qualified radio certificate issued under subsection (2) of that section, or an exemption certificate issued under subsection (3) of that section.

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<sup>(1)</sup> 1894 c. 60.

## **Penalties**

**48.—**(1) If a radiotelephone operator or radio officer or a person nominated under regulation 15(7) of these Regulations contravenes any provision of these Regulations imposing a duty on him, he shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 2 on the standard scale; and if any person, being the owner or Master of the ship, permits such a contravention, he shall be guilty of an offence and liable on summary conviction to a fine not exceeding the statutory maximum or, on conviction on indictment, to imprisonment for a term not exceeding 2 years and a fine.

(2) If these Regulations are contravened in any other respect in relation to any ship, the owner and Master of the ship shall each be guilty of an offence and liable on summary conviction to a fine not exceeding the statutory maximum or, on conviction on indictment, to imprisonment for a term not exceeding 2 years and a fine.

## **Defence**

**49.** It shall be a defence for a person charged under these Regulations to show that he took all reasonable precautions to avoid the commission of the offence.

## **Repeal**

**50.** In subparagraph (1)(b) of section 12 of the 1949 Act the word “both”, subparagraph (ii) and the word “and” immediately preceding that subparagraph are hereby repealed.