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STATUTORY INSTRUMENTS

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**1995 No. 3128**

**The Merchant Shipping (Port State Control) Regulations 1995**

**PART I**

**IMPLEMENTATION OF COUNCIL DIRECTIVE 95/21/EC**

**Right of appeal and compensation**

**10.**—(1) Regulations 11 and 12 apply in relation to the exercise of the power of detention in any Convention enactment which is contained in a statutory instrument, except the Merchant Shipping (Survey and Certification) Regulations 1995(1).

(2) Section 96 of the Act (references of detention notices to arbitration) shall apply in relation to a ship to which this Part of these Regulations applies as if, in subsection (2), the words from “unless” to the end were omitted.

(3) Section 97 of the Act (compensation in connection with invalid detention of ship) shall apply in relation to a ship to which this Part of these Regulations applies as if, for subsection (1) there were substituted:

“(1) If on a reference under section 96 relating to a detention notice in relation to a ship, the owner of the ship shows to the satisfaction of the arbitrator that—

- (a) any matter did not constitute a valid basis for the relevant inspector’s opinion, and
- (b) there were no reasonable grounds for the inspector to form that opinion,

the arbitrator may award the owner such compensation in respect of any loss suffered by him in consequence of the detention of the ship as the arbitrator thinks fit.”.

(4) In the operation of sections 264 and 265 of the Act, as applied by regulation 25 of the Merchant Shipping (Survey and Certification) Regulations 1995, as those sections apply in relation to a detention notice or order served on the master of a ship which is not a British ship:

- (i) the giving of a notice under the said section 264 (as applied by the said Regulations) shall not operate to suspend the operation of the detention notice or order; and
- (ii) on a reference under the said section 264 (as applied by the said Regulations) the burden of satisfying the arbitrator as to the matters specified in paragraphs (a) and (b) of the subsection (1) of the said section 265 shall lie with the owner.