
STATUTORY INSTRUMENTS

1998 No. 1433

MERCHANT SHIPPING

The Merchant Shipping (Port State Control) (Amendment) Regulations 1998

<i>Made</i>	- - - -	<i>9th June 1998</i>
<i>Laid before Parliament</i>		<i>10th June 1998</i>
<i>Coming into force</i>	- -	<i>1st July 1998</i>

The Secretary of State, being a Minister designated⁽¹⁾ for the purposes of section 2(2) of the European Communities Act 1972⁽²⁾ in relation to safety of ships and the health and safety of persons on them, in exercise of the powers conferred by the said section 2(2) and of all other powers enabling him in that behalf, hereby makes the following Regulations:

1. These Regulations may be cited as the Merchant Shipping (Port State Control) (Amendment) Regulations 1998 and shall come into force on 1st July 1998.
2. The Merchant Shipping (Port State Control) Regulations 1995⁽³⁾ shall be amended as follows.
3. For the words “Marine Safety Agency” wherever they appear there shall be substituted “Maritime and Coastguard Agency”.
4. In regulation 2(1) after “(port State Control)” there shall be inserted “as amended by Commission Directive [96/40/EC](#)⁽⁴⁾ and Council Directive [98/25/EC](#)⁽⁵⁾.”
5. In regulation 2(2)—
 - (a) in the definition of “Conventions” for the words “in force at 19 June 1995” there shall be substituted the words “in force at 1 July 1998”;
 - (b) in the definition of “MOU” for the words “as it stands at 19 June 1995” there shall be substituted the words “as it stands on 14 January 1998”.
6. After regulation 9 there shall be inserted the following regulation—

(1) S.I.1993/595.
(2) 1972 c. 68.
(3) S.I. 1995/3128.
(4) OJNo. L196, 7.8.96, p. 8.
(5) OJ No. L133, 7.5.98, p. 19.

“Procedure applicable in the absence of ISM certificates

9A.—(1) Where an inspection reveals that a copy of the document of compliance or the safety management certificate required by the International Management Code for the Safe Operation of Ships and for Pollution Prevention (ISM Code) are not on board a vessel to which the ISM Code is applicable at the date of inspection, the inspector shall detain the ship.

(2) Notwithstanding the absence of the documentation referred to in paragraph (1) above,

(i) if the inspection reveals no other deficiencies warranting detention the Maritime and Coastguard Agency may lift the detention order for the purpose of avoiding port congestion. Whenever such a decision is taken, the Maritime and Coastguard Agency shall immediately alert the competent authorities of the member States; and

(ii) where deficiencies referred to in regulation 9(2) are found and cannot be rectified in the port of detention, the relevant provisions of regulation 13 shall apply.

(3) A ship which proceeds to sea from any port in any member State following release in order to avoid port congestion shall not enter any port in the United Kingdom until the owner has provided evidence to the satisfaction of the competent authority of the member State where the ship was detained that the ship fully complies with the requirements of the ISM Code.

(4) Notwithstanding the provisions of paragraph (3) above access to a specific port may be permitted in situations referred to in regulation 13(8).”

7. For regulation 14(4) there shall be substituted:

“(4) An inspector shall carry a personal document in the form of an identity card issued by the Maritime and Coastguard Agency which shall include the information specified in Annex VIII of M 1639.”

8. In regulation 18(2)(b), after “regulation” there shall be inserted “9A(3) or”.

Signed by authority of the Secretary of State

Glenda Jackson
Parliamentary Under-Secretary of State,
Department of the Environment, Transport and
the Regions

9th June 1998

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations amend the Merchant Shipping (Port State Control) Regulations 1995, to implement two Directives (96/4/EC and 98/EC) which amend Directive 95/21/EC, on port State control. The 1995 Regulations implemented that 1995 Directive.

The Regulations require detention of ships which do not carry documentation required under the International Management Code for the Safe Operation of Ships and for Pollution Prevention (ISM Code). They also update certain references, and amends the requirement relating to the carriage of an identity card by port State control inspectors.