
STATUTORY INSTRUMENTS

2006 No. 3223

The Merchant Shipping (Inland Waterway and
Limited Coastal Operations) (Boatmasters'
Qualifications and Hours of Work) Regulations 2006

PART 2

BOATMASTER'S LICENCES AND BOATMASTERS' CERTIFICATES

Enforcement

Part 2: offences

24.—(1) If a person serving as master of a vessel contravenes regulation 12(2), 18(6) or 20(2) he is guilty of an offence and is liable on summary conviction to a fine not exceeding level 5 on the standard scale.

(2) If the owner of a vessel causes or permits it to begin a voyage when the person serving as its master is a person who contravenes regulation 12(2), 18(6) or 20(2), he is guilty of an offence and liable on summary conviction to a fine not exceeding level 5 on the standard scale.

(3) For the purposes of section 49 (prohibition of going to sea undermanned), and 52 (unqualified persons going to sea as qualified officers or seamen) of the 1995 Act, a person does not contravene regulation 8(1)—

- (a) while he is navigating a vessel as part of the qualifying service required under regulation 11 or 17, if he is under the direction of a person who is qualified in accordance with regulation 8,
- (b) while he is undergoing a practical test of seamanship and vessel handling skill in accordance with paragraph 12(1)(a) of Part 1 of Schedule 4 or paragraph 11(1)(a) of Part 2 of that Schedule, or
- (c) while he is authorised to serve as master of a vessel under regulation 32, 33 or 34.

(4) It is a defence for a person charged with an offence under this regulation to prove that he took all reasonable steps to avoid commission of the offence.

Offences by bodies corporate, Scottish partnerships, etc

25.—(1) If an offence under regulation 24 committed by a body corporate is shown—

- (a) to have been committed with the consent or connivance of an officer, or a person purporting to act in the capacity of an officer, of a body corporate, or
- (b) to be attributable to any neglect on the part of any such person,

that officer or person as well as the body corporate is guilty of the offence and liable to be punished accordingly.

(2) If the affairs of a body corporate are managed by its members, paragraph (1) applies in relation to the acts and defaults of a member in connection with his functions of management as if he were a director of the body.

(3) If an offence under regulation 24 committed by a partnership or unincorporated association in Scotland is shown—

- (a) to have been committed with the consent or connivance of a partner, or
- (b) to be attributable to any neglect on his part,

that partner as well as the partnership is guilty of the offence and liable to be punished accordingly.

(4) If an offence under regulation 24 committed by an unincorporated association (other than a partnership) is shown—

- (a) to have been committed with the consent or connivance of a person concerned in the management or control of the association, or
- (b) to be attributable to any neglect on the part of such officer or person,

that officer or person as well as the association is guilty of the offence and liable to be punished accordingly.

(5) It is a defence for a person charged with an offence under this regulation to prove that he took all reasonable steps to avoid commission of the offence.

Detention of vessels

26.—(1) Where a person (a “relevant inspector”) mentioned in paragraph (a), (b) or (c) of section 258(1) of the 1995 Act (powers to inspect ships and their equipment, etc) is satisfied that an offence under regulation 24 or 25 is being committed in relation to any vessel, the vessel is liable to be detained.

(2) Where a vessel is liable to be detained under paragraph (1), the relevant inspector detaining it must serve on the master of the vessel a detention notice which—

- (a) states that the relevant inspector is of the opinion that an offence under regulation 24 or 25 has been committed,
- (b) specifies the reasons for that opinion, and
- (c) prohibits the vessel from commencing a voyage until a relevant inspector is satisfied it can do so in circumstances where no such offence is committed.

(3) Sections 96 and 97 of the 1995 Act (arbitration and compensation in connection with detention notices) apply in relation to a detention notice under paragraph (2) as they apply in relation to a detention notice under section 95 (power to detain dangerously unsafe ship) but with the following words omitted from section 96—

- (a) in subsection (1), “in pursuance of section 95(3)(b)”,
- (b) in subsection (3), “to whether the ship was or was not a dangerously unsafe ship”,
- (c) in subsection (5), “as a dangerously unsafe ship”.

(4) Where a vessel is liable to be detained under this regulation, section 284 of the 1995 Act (enforcing detention of ship) has effect with the following modifications—

- (a) for subsection (1) there is substituted—

“(1) Where under the Merchant Shipping (Inland Waterway and Limited Coastal Operations) (Boatmasters’ Qualifications and Hours of Work) Regulations 2006 a ship is liable to be detained a relevant inspector may detain the ship.”;

- (b) in subsection (4), for the words from “any of the following” to “any surveyor of ships” there is substituted “any relevant inspector”;

(c) subsections (6) and (7) are omitted; and

(d) at the end there is inserted—

“(9) In this section, “relevant inspector” means any person mentioned in paragraph (a), (b) or (c) of section 258(1).”