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DRAFT STATUTORY INSTRUMENTS

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**2019 No.**

**The Merchant Shipping (Recognised Organisations)  
(Amendment) (EU Exit) Regulations 2019**

**Amendment of Commission Regulation (EU) 788/2014**

4.—(1) Commission Regulation (EU) 788/2014 laying down detailed rules for the imposition of fines and periodic penalty payments and the withdrawal of recognition of ship inspection and survey organisations pursuant to Articles 6 and 7 of Regulation (EC) 391/2009 is amended as follows.

(2) In Article 1 (subject matter)—

- (a) in the first paragraph, for “Commission” substitute “Secretary of State”;
- (b) in the second paragraph, omit the words after “organisation”.

(3) In Article 2 (definitions), omit the second subparagraph.

(4) In Article 3 (identification of infringements), at each place it occurs, for “Commission” substitute “Secretary of State”.

(5) In Article 5 (assessment of the seriousness of an infringement), at each place it occurs, for “Commission” substitute “Secretary of State”.

(6) In Article 6 (assessment of the effects of an infringement), for “Commission” substitute “Secretary of State”.

(7) In Article 7 (periodic penalty payments), at each place it occurs, for “Commission” substitute “Secretary of State”.

(8) In Article 8 (determination of maximum aggregate amount of fines and periodic penalty payments), at each place it occurs, for “Commission” substitute “Secretary of State”.

(9) In Article 9 (calculation of turnover), for “Commission’s” substitute “Secretary of State’s”.

(10) In Article 10 (withdrawal of recognition)—

- (a) in paragraph 1, for the words from “Upon” to “adopt” substitute “The Secretary of State may make”;
- (b) in paragraph 3, for “Commission” substitute “Secretary of State”.

(11) Omit Article 11 (procedure to withdraw recognition at the request of a Member State).

(12) In Article 12 (statement of objections)—

- (a) at each place it occurs, for “Commission” substitute “Secretary of State”;
- (b) in paragraph 1, omit “and notify the Member State concerned”;
- (c) in paragraph 2(b), omit “or by the European Maritime Safety Agency acting on the Commission’s behalf”;
- (d) in paragraph 3, omit “and the Member State concerned”.

(13) In Article 13 (requests for information), at each place it occurs, for “Commission” substitute “Secretary of State”.

(14) In Article 14 (oral hearing)—

- (a) in paragraph 1, for “Commission” substitute “Secretary of State”;

- (b) for paragraph 2 substitute—
    - “2. The Secretary of State may invite any other persons with a legitimate interest in the infringement to take part in the oral hearing.”;
  - (c) in paragraph 3, omit the second sentence;
  - (d) in paragraph 5, omit “and to Member States concerned”.
- (15) In Article 15 (periodic penalty payments for non-cooperation)—
- (a) at each place it occurs, for “Commission” substitute “Secretary of State”;
  - (b) in paragraph 1—
    - (i) for “adopt” substitute “make”,
    - (ii) for “it” substitute “the Secretary of State”.
- (16) In Article 16 (access to the file)—
- (a) at each place it occurs, for “Commission” substitute “Secretary of State”;
  - (b) in paragraph 4, omit “or the European Maritime Safety Agency”;
  - (c) for paragraph 5 substitute—
    - “5. For the purposes of paragraph 4, internal documents of the Secretary of State may include documents or parts of documents pertaining to the internal deliberations of the Secretary of State.”.
- (17) In Article 18 (confidentiality, professional secrecy and the right to remain silent)—
- (a) at each place it occurs, for “Commission” substitute “Secretary of State”;
  - (b) in paragraph 2, omit the words from “, the European Maritime Safety Agency” to “supervision”, and “by them”.
- (18) In Article 19 (decision)—
- (a) at each place it occurs, for “Commission” substitute “Secretary of State”;
  - (b) in paragraph 4, for “adopted” substitute “made”;
  - (c) omit paragraphs 5 and 6.
- (19) In Article 20 (judicial remedies, notification and publication)—
- (a) at each place it occurs, for “Commission” substitute “Secretary of State”;
  - (b) omit paragraph 2;
  - (c) in paragraph 3, omit “or informing the Member States”.
- (20) In Article 21 (recovery of fines and penalty payments)—
- (a) in the first line for “Commission” substitute “Secretary of State”;
  - (b) for the words “establishing a recovery order and issuing a debit note” substitute “service of a notice demanding payment of the debt”;
  - (c) omit the words “in accordance with” to “Commission Delegated Regulation (EU) No 1268/2012”.
- (21) In Article 22 (limitation periods for the imposition of fines and periodic penalty payments)—
- (a) at each place it occurs, for “Commission” substitute “Secretary of State”;
  - (b) in paragraph 2—
    - (i) in the first line omit “or the European Maritime Safety Agency”;
    - (ii) in the third line omit “or the Agency”;
  - (c) in paragraph 4—

- (i) before “proceedings” insert “judicial”;
  - (ii) omit “pending before the Court of Justice of the European Union”.
- (22) In Article 23 (limitation periods for the collection of fines and periodic penalty payments)—
- (a) in paragraph 1, for “start a recovery procedure” substitute “commence judicial proceedings or arbitration”;
  - (b) in paragraph 2, for the word from the first “Commission” to the second “Commission” substitute “Secretary of State”;
  - (c) in paragraph 4(b), for “Court of Justice of the European Union” substitute “Court seized of the action or an arbitration tribunal”.
- (23) In Article 24 (application of time limits)—
- (a) in paragraph 1, for “Commission’s” substitute “Secretary of State’s”;
  - (b) at each place it occurs, for “Commission” substitute “Secretary of State”.
- (24) Omit Article 25 (cooperation of national competent authorities) and Article 27 (entry into force) and the final sentence following Article 27.
- (25) In the Annex, in the second column of the entry relating to Article 10(5) of Regulation (EC) No 391/2009, for “flag State” substitute “Secretary of State”.