



# Merchant Shipping Act 1979

## 1979 CHAPTER 39

### *Discipline*

#### **23 Breaches by seamen of codes of conduct and local industrial agreements**

- (1) For the purpose of maintaining discipline on board ships registered in the United Kingdom the Secretary of State may by regulations make provision—
- (a) for the hearing on shore in the United Kingdom, by a body established or approved by the Secretary of State in pursuance of the regulations, of a complaint by the master or owner of a ship registered in the United Kingdom, other than a fishing vessel, alleging that during a period when a person (hereafter in this subsection referred to as " the seaman ") was employed on board the ship he contravened, either on or off the ship \_ and in the United Kingdom or elsewhere, a provision of a code of conduct approved by the Secretary of State for the purposes of this section;
  - (b) for enabling the body to dismiss the complaint if it finds the allegation not proved and, if it finds the allegation proved, to warn or reprimand the seaman or to recommend to the Secretary of State that the seaman shall, either for a period specified in the recommendation or permanently, cease to be entitled to a discharge book in pursuance of section 71 of the Merchant Shipping Act 1970 and shall be required to surrender any such book which has been issued to him;
  - (c) for enabling the seaman to appeal against such a recommendation to another body established or approved as aforesaid and for enabling the body to confirm or cancel the recommendation or, in the case of a recommendation that the seaman shall cease to be entitled to a discharge book permanently or for a particular period, to substitute for it a recommendation that he shall cease to be so entitled, instead of permanently, for a period specified in the substituted recommendation or, instead of for the particular period, for a shorter period so specified ;
  - (d) for securing that a recommendation in pursuance of regulations made by virtue of paragraph (b) above that the seaman shall permanently cease to be entitled to a discharge book is not submitted to the Secretary of State unless it has been confirmed, either on appeal or otherwise, by a body which is or was authorised

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*Status: This is the original version (as it was originally enacted).*

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by regulations made by virtue of the preceding paragraph to entertain an appeal against the recommendation ;

- (e) for the establishment or approval for the purposes of this section of such number of bodies as the Secretary of State thinks fit and with respect to the composition, jurisdiction and procedure of any body established or approved for those purposes ;
- (f) for the payment out of money provided by Parliament of such remuneration and allowances as the Secretary of State may with the consent of the Minister for the Civil Service determine to any member of a body established by the Secretary of State in pursuance of the regulations ;

and regulations made by virtue of this subsection may make different provision for different circumstances and may contain such incidental and supplemental provisions as the Secretary of State considers appropriate.

- (2) In relation to fishing vessels registered in the United Kingdom the preceding subsection shall have effect with the substitution for paragraph (a) of the following paragraph—

- (a) for the hearing on shore in the United Kingdom, by a body established or approved by the Secretary of State in pursuance of the regulations, of a complaint by the master or owner of a fishing vessel registered in the United Kingdom alleging that during a period when a person (hereafter in this subsection referred to as " the seaman ") was employed on board the vessel, he contravened, either on or off the vessel and in the United Kingdom or elsewhere, a local industrial agreement relating to his employment in the vessel and for requiring the body to have regard to the agreement in determining whether the allegation is proved ;

and regulations made by virtue of the preceding subsection may include provision authorising persons to determine, for the purposes of that paragraph, what agreements are or were local industrial agreements and which local industrial agreement relates or related to a person's employment in a particular vessel.

- (3) Without prejudice to the generality of subsection (1) of this section, regulations made by virtue of that subsection may include provision for any proceedings in pursuance of the regulations to take place notwithstanding the absence of the seaman to whom the proceedings relate; and nothing in regulations made by virtue of that subsection or done in pursuance of regulations so made shall be construed as affecting any power to institute, prosecute, entertain or determine proceedings (including criminal proceedings) under any other enactment or at common law.
- (4) When the Secretary of State proposes to make any regulations in pursuance of subsection (1) of this section it shall be his duty, before he makes the regulations, to consult about the proposal such organisations in the United Kingdom as he considers are representative of persons likely to be affected by the regulations.
- (5) The power conferred by section 71 of the Merchant Shipping Act 1970 to make regulations relating to discharge books—
  - (a) shall include power to provide for a person to cease to be entitled to a discharge book in consequence of a recommendation made by virtue of this section;
  - (b) includes power to provide for the re-issue of discharge books which have been surrendered in consequence of such a recommendation.
- (6) A person who, in the United Kingdom or elsewhere—

- (a) obtains employment as a seaman on board a ship registered in the United Kingdom and does so when he is disentitled to a discharge book by virtue of regulations made by virtue of paragraph (a) of the preceding subsection; or
- (b) employs as such a seaman a person who he knows or has reason to suspect is disentitled as aforesaid,

shall be guilty of an offence and liable on summary conviction to a fine not exceeding £1,000 or, on conviction on indictment, to imprisonment for a term not exceeding two years or a fine or both.

- (7) Sections 34 to 38 of the Merchant Shipping Act 1970 and paragraph 2 of Schedule 2 to that Act (which relate to discipline on board ships registered in the United Kingdom) shall cease to have effect.