



# Aviation and Maritime Security Act 1990

## 1990 CHAPTER 31

### PART III

#### PROTECTION OF SHIPS AND HARBOUR AREAS AGAINST ACTS OF VIOLENCE

**Modifications etc. (not altering text)**

**C1** Pt. III extended (with modifications.) (Jersey) (1.1.1997) by S.I. 1996/2881, art. 2, Sch. Pts. I, II

#### *General purposes*

#### **18 Purposes to which Part III applies.**

- (1) The purposes to which this Part of this Act applies are the protection against acts of violence—
- (a) of ships, and of persons or property on board ships, and
  - (b) of harbour areas, of such persons as are at any time present in any part of a harbour area and of such property as forms part of a harbour area or is at any time (whether permanently or temporarily) in any part of a harbour area.
- (2) In this Part of this Act act of violence means any act (whether actual or potential, and whether done or to be done in the United Kingdom or elsewhere) which either—
- (a) being an act done in Great Britain, constitutes, or
  - (b) if done in Great Britain would constitute,
- the offence of murder, attempted murder, manslaughter, culpable homicide or assault, or an offence under section 18, 20, 21, 22, 23, 24, 28 or 29 of the Offences against the <sup>M1</sup>Person Act 1861, under section 2 of the <sup>M2</sup>Explosive Substances Act 1883 or under section 1 of the <sup>M3</sup>Criminal Damage Act 1971 or, in Scotland, the offence of malicious mischief.

[<sup>F1</sup>(3) In this Part of this Act harbour area means—

- (a) the aggregate of—

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- (i) any harbour in the United Kingdom in respect of which there is a harbour authority within the meaning of the<sup>M4</sup>Merchant Shipping Act 1995, and
  - (ii) any land which is adjacent to such a harbour and which is either land occupied by the harbour authority or land in respect of which the harbour authority has functions of improvement, maintenance or management, or
- (b) any hoverport which does not form part of any area which falls within paragraph (a)(i) or (ii) above.]

#### Textual Amendments

**F1** S. 18(3) substituted (17.7.1997) by 1997 c. 28, s. 25, **Sch. 4 para. 2**; S.I. 1997/1539, art. 2, **Sch.**

#### Modifications etc. (not altering text)

**C2** S. 18 extended (with modifications) (Jersey) (1.1.1997) by S.I. 1996/2881, art. 2, **Sch. Pts. I, II**

#### Marginal Citations

**M1** 1861 c. 100.

**M2** 1883 c. 3.

**M3** 1971 c. 48.

**M4** 1995 c. 21.

### *Powers of Secretary of State*

#### **19 Power of Secretary of State to require information.**

- (1) The Secretary of State may, by notice in writing served on any of the following persons—
- (a) the owner, charterer, manager or master of—
    - (i) a British ship, or
    - (ii) any other ship which is in, or appears to the Secretary of State to be likely to enter, a harbour area,
  - (b) a harbour authority,
  - (c) any person who carries on harbour operations in a harbour area, and
  - (d) any person who is permitted to have access to a restricted zone of a harbour area for the purposes of the activities of a business carried on by him,
- require that person to provide the Secretary of State with such information specified in the notice as the Secretary of State may require in connection with the exercise by the Secretary of State of his functions under this Part of this Act.
- (2) A notice under subsection (1) above shall specify a date (not being earlier than seven days from the date on which the notice is served) before which the information required by the notice in accordance with subsection (1) above is to be furnished to the Secretary of State.
- (3) Any such notice may also require the person on whom it is served, after he has furnished to the Secretary of State the information required by the notice in accordance with subsection (1) above, to inform the Secretary of State if at any time the information previously furnished to the Secretary of State (including any information

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furnished in pursuance of a requirement imposed by virtue of this subsection) is rendered inaccurate by any change of circumstances (including the taking of any further measures for purposes to which this Part of this Act applies or the alteration or discontinuance of any measures already being taken).

- (4) In so far as such a notice requires further information to be furnished to the Secretary of State in accordance with subsection (3) above, it shall require that information to be furnished to him before the end of such period (not being less than seven days from the date on which the change of circumstances occurs) as is specified in the notice for the purposes of this subsection.
- (5) Any person who—
  - (a) without reasonable excuse, fails to comply with a requirement imposed on him by a notice under this section, or
  - (b) in furnishing any information so required, makes a statement which he knows to be false in a material particular, or recklessly makes a statement which is false in a material particular,commits an offence.
- (6) A person guilty of an offence under subsection (5) above is liable—
  - (a) on summary conviction, to a fine not exceeding the statutory maximum;
  - (b) on conviction on indictment, to a fine or to imprisonment for a term not exceeding two years or to both.
- (7) A notice served on a person under subsection (1) above may at any time—
  - (a) be revoked by a notice in writing served on him by the Secretary of State, or
  - (b) be varied by a further notice under subsection (1) above.

**Modifications etc. (not altering text)**

C3 S. 19 extended (with modifications) (Jersey) (1.1.1997) by S.I. 1996/2881, art. 2, Sch. Pts. I, II

## 20 Designation of restricted zones of harbour areas.

- (1) A harbour authority may, and shall if so requested in writing by the Secretary of State, apply to the Secretary of State for the designation of the whole or any part of the harbour area as a restricted zone for the purposes of this Part of this Act.
- [<sup>F2</sup>(1A) A harbour operator may, and shall if so requested in writing by the Secretary of State, apply to the Secretary of State for the designation of the whole or any part of the operating area as a restricted zone for the purposes of this Part of this Act.]
- (2) An application under subsection (1) [<sup>F3</sup>or (1A)]above shall be in such form, and accompanied by such plans, as the Secretary of State may require.
- (3) If the Secretary of State approves an application under subsection (1) [<sup>F3</sup>or (1A)] above with or without modifications, he shall designate the restricted zone accordingly.
- (4) Before approving an application with modifications, the Secretary of State shall consult the [<sup>F4</sup>applicant].
- (5) If a [<sup>F5</sup>person] is requested in writing by the Secretary of State to make an application under subsection (1) [<sup>F6</sup>or (1A)]above within a specified period but fails to do so within

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that period, the Secretary of State may designate the whole or any part of the harbour area [<sup>F7</sup>or, as the case may be, of the operating area] as a restricted zone.

- (6) The whole or any part of a harbour area [<sup>F8</sup>or, as the case may be, of an operating area] may be designated as a restricted zone, or part of a restricted zone, for specified days or times of day only.
- (7) The Secretary of State shall give notice to the [<sup>F9</sup>person who made, or was requested to make, the application] of any designation under this section and the designation of the restricted zone shall take effect on the giving of the notice.
- (8) Where the whole or any part of a harbour area [<sup>F10</sup>or, as the case may be, of an operating area] has been designated under this section as a restricted zone—
- (a) subsections (1) to (7) above also have effect in relation to any variation of the designation, and
  - (b) the designation may at any time be revoked by the Secretary of State.

[<sup>F11</sup>(9) In this Part of this Act harbour operator means a person who—

- (a) carries on harbour operations in a harbour area, and
- (b) is designated for the purposes of this Part by an order made by the Secretary of State;

and operating area means, in relation to that person, so much of the harbour area as is under his control.

- (10) An order under subsection (9) above may be revoked by a subsequent order.]

#### Textual Amendments

- F2** S. 20(1A) inserted (17.7.1997) by 1997 c. 28, s. 25, **Sch. 4 para. 3(2)**; S.I. 1997/1539, art. 2, **Sch.**
- F3** Words in s. 20(2)(3) inserted (17.7.1997) by 1997 c. 28, s. 25, **Sch. 4 para. 3(3)**; S.I. 1997/1539, art. 2, **Sch.**
- F4** Words in s. 20(4) substituted (17.7.1997) by 1997 c. 28, s. 25, **Sch. 4 para. 3(4)**; S.I. 1997/1539, art. 2, **Sch.**
- F5** Words in s. 20(5) substituted (17.7.1997) by 1997 c. 28, s. 25, **Sch. 4 para. 3(5)(a)**; S.I. 1997/1539, art. 2, **Sch.**
- F6** Words in s. 20(5) inserted (17.7.1997) by 1997 c. 28, s. 25, **Sch. 4 para. 3(5)(b)**; S.I. 1997/1539, art. 2, **Sch.**
- F7** Words in s. 20(5) inserted (17.7.1997) by 1997 c. 28, s. 25, **Sch. 4 para. 3(5)(c)**; S.I. 1997/1539, art. 2, **Sch.**
- F8** Words in s. 20(6) inserted (17.7.1997) by 1997 c. 28, s. 25, **Sch. 4 para. 3(6)**; S.I. 1997/1539, art. 2, **Sch.**
- F9** Words in s. 20(7) substituted (17.7.1997) by 1997 c. 28, s. 25, **Sch. 4 para. 3(7)**; S.I. 1997/1539, art. 2, **Sch.**
- F10** Words in s. 20(8) inserted (17.7.1997) by 1997 c. 28, s. 25, **Sch. 4 para. 3(8)**; S.I. 1997/1539, art. 2, **Sch.**
- F11** S. 20(9)(10) inserted (17.7.1997) by 1997 c. 28, s. 25, **Sch. 4 para. 3(9)**; S.I. 1997/1539, art. 2, **Sch.**

#### Modifications etc. (not altering text)

- C4** S. 20 extended (with modifications) (Jersey) (1.1.1997) by S.I. 1996/2881, art. 2, Sch. Pts. I, II

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## **21 Power to impose restrictions in relation to ships.**

- (1) For purposes to which this Part of this Act applies, the Secretary of State may give a direction in writing to a harbour authority or to the owner, charterer, manager or master of a British ship, or of any other ship which is in a harbour area, requiring that person—
  - (a) not to cause or permit persons or property to go or be taken on board any ship to which the direction relates, or to come or be brought into proximity to any such ship, unless such searches of those persons or that property as are specified in the direction have been carried out by constables or by other persons of a description specified in the direction, or
  - (b) not to cause or permit any such ship to go to sea unless such searches of the ship as are specified in the direction have been carried out by constables or by other persons of a description so specified.
- (2) For purposes to which this Part of this Act applies, the Secretary of State may give a direction in writing to the owner, charterer, manager or master of—
  - (a) a British ship, or
  - (b) any other ship which is in a harbour area,requiring him not to cause or permit the ship to go to sea unless such modifications or alterations of the ship, or of apparatus or equipment installed in or carried on board the ship, as are specified in the direction have first been carried out, or such additional apparatus or equipment as is so specified is first installed in or carried on board the ship.
- (3) In giving any direction under subsection (2) above, the Secretary of State shall allow, and shall specify in the direction, such period as appears to him to be reasonably required for carrying out the modifications or alterations or installing or obtaining the additional apparatus or equipment in question; and the direction shall not take effect before the end of the period so specified.
- (4) Subject to the following provisions of this Part of this Act, a direction given to an owner, charterer or manager of a ship under subsection (1) or (2) above may be given so as to relate either to all the ships falling within that subsection of which at the time when the direction is given or at any subsequent time he is the owner, charterer or manager or only to one or more such ships specified in the direction; and a direction given to a harbour authority under subsection (1) above may be given so as to relate either to all ships which at the time when the direction is given or at any subsequent time are in any part of the harbour area, or to a class of such ships specified in the direction.
- (5) Subject to the following provisions of this Part of this Act, a direction under subsection (1) above may be given so as to relate—
  - (a) either to all persons or only to one or more persons, or persons of one or more descriptions, specified in the direction, and
  - (b) either to property of every description or only to particular property, or property of one or more descriptions, so specified.
- (6) Subject to the following provisions of this Part of this Act, any direction given under this section to any person not to cause or permit anything to be done shall be construed as requiring him to take all such steps as in any particular circumstances are practicable and necessary to prevent that thing from being done.

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- (7) A direction may be given under this section to a person appearing to the Secretary of State to be about to become such a person as is mentioned in subsection (1) or (2) above, but a direction given to a person by virtue of this subsection shall not take effect until he becomes a person so mentioned and, in relation to a direction so given, the preceding provisions of this section shall apply with the necessary modifications.
- (8) Any person who, without reasonable excuse, fails to comply with a direction given to him under this section is guilty of an offence and liable—
- (a) on summary conviction, to a fine not exceeding the statutory maximum;
  - (b) on conviction on indictment, to a fine or to imprisonment for a term not exceeding two years or to both.
- (9) Where a person is convicted of an offence under subsection (8) above, then, if without reasonable excuse the failure in respect of which he was convicted is continued after the conviction, he is guilty of a further offence and liable on summary conviction to a fine not exceeding one-tenth of level 5 on the standard scale for each day on which the failure continues.

**Modifications etc. (not altering text)**

**C5** S. 21 extended (with modifications) (Jersey) (1.1.1997) by S.I. 1996/2881, art. 2, Sch. Pts. I, II

**22 Power to require harbour authorities to promote searches in harbour areas.**

- (1) For purposes to which this Part of this Act applies, the Secretary of State may give a direction in writing <sup>[F12]</sup>to—
- (a) a harbour authority, or
  - (b) a harbour operator,
- requiring that person to use his best endeavours] to secure that such searches to which this section applies as are specified in the direction are carried out by constables or by other persons of a description specified in the direction.
- (2) The searches to which this section applies, in relation to a harbour area, are searches—
- (a) of the harbour area or any part of it,
  - (b) of any ship which at the time when the direction is given or at any subsequent time is in the harbour area, and
  - (c) of persons and property (other than ships) which may at any time be in the harbour area.
- <sup>[F13]</sup>(2A) The searches to which this section applies, in relation to an operating area, are searches—
- (a) of the operating area or any part of it,
  - (b) of any ship which at the time when the direction is given or at any subsequent time is in the operating area, and
  - (c) of persons and property (other than ships) which may at any time be in the operating area.]
- (3) Where a direction under this section to a harbour authority is for the time being in force, then, subject to subsections (4) and (5) below, if a constable or any other person specified in the direction in accordance with this section has reasonable cause to suspect that an article to which this subsection applies is in, or may be brought into,

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any part of the harbour area, he may, by virtue of this subsection and without a warrant, search any part of the harbour area or any ship, vehicle, goods or other moveable property of any description which, or any person who, is for the time being in any part of the harbour area, and for that purpose—

- (a) may enter any building or works in the harbour area, or enter upon any land in the harbour area, if need be by force,
- (b) may go on board any such ship and inspect the ship,
- (c) may stop any such ship and, for so long as may be necessary for that purpose, prevent it from being moved, and
- (d) may stop any such vehicle, goods, property or person and detain it or him for so long as may be necessary for that purpose.

[<sup>F14</sup>(3A) Subsection (3) above applies in relation to a direction under this section to a harbour operator as it applies in relation to a direction to a harbour authority, but as if the references to the harbour area (or to any part of the harbour area) were references to the operating area (or any part of the operating area).]

(4) In the case of premises used only as a private dwelling any power to search or enter conferred by subsection (3) above may not be exercised except—

- (a) under the authority of a warrant issued by a justice of the peace; and
- (b) by a constable who is a member of a body of constables maintained—
  - (i) in England, Scotland or Wales by a police authority or an authority which has entered into an agreement with the Police Complaints Authority under section 96(1) of the <sup>M5</sup>Police and Criminal Evidence Act 1984; or
  - (ii) in Northern Ireland, by the Police Authority for Northern Ireland or an authority which has entered into an agreement with the Independent Commission for Police Complaints for Northern Ireland under Article 16 of the <sup>M6</sup>Police (Northern Ireland) Order 1987.

(5) If, on an application made by a constable, a justice of the peace is satisfied that there are reasonable grounds for suspecting that an article to which subsection (3) above applies is in any premises used only as a private dwelling, he may issue a warrant authorising a constable to enter and search the premises.

(6) Subsection (3) above applies to the following articles—

- (a) any firearm, or any article having the appearance of being a firearm, whether capable of being discharged or not,
- (b) any explosive, any article manufactured or adapted (whether in the form of a bomb, grenade or otherwise) so as to have the appearance of being an explosive, whether it is capable of producing a practical effect by explosion or not, or any article marked or labelled so as to indicate that it is or contains an explosive, and
- (c) any article (not falling within either of the preceding paragraphs) made or adapted for use for causing injury to or incapacitating a person or for destroying or damaging property, or intended by the person having it with him for such use, whether by him or by any other person.

(7) Any person who—

- (a) without reasonable excuse, fails to comply with a direction given to him under this section, or

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- (b) intentionally obstructs a person acting in the exercise of a power conferred on him by subsection (3) above,  
 commits an offence.
- (8) A person guilty of an offence under subsection (7) above is liable—
- (a) on summary conviction, to a fine not exceeding the statutory maximum;
  - (b) on conviction on indictment, to a fine or to imprisonment for a term not exceeding two years or to both.
- (9) Where a person is convicted of an offence under subsection (7)(a) above, then, if without reasonable excuse the failure in respect of which he was convicted is continued after the conviction, he is guilty of a further offence and liable on summary conviction to a fine not exceeding one-tenth of level 5 on the standard scale for each day on which the failure continues.
- (10) Subsection (3) above has effect without prejudice to the operation, in relation to any offence under this Act—
- (a) in England and Wales, of sections 17, 24 and 25 of the <sup>M7</sup>Police and Criminal Evidence Act 1984 (which confer power to arrest without warrant and to enter premises for the purpose of making an arrest) or of section 3 of the <sup>M8</sup>Criminal Law Act 1967 (use of force in making arrest etc.), or
  - (b) in Scotland, of any rule of law relating to the power to arrest without warrant, or
  - (c) in Northern Ireland, of Articles 19, 26 and 27 of the <sup>M9</sup>Police and Criminal Evidence (Northern Ireland) Order 1989 or of section 3 of the <sup>M10</sup>Criminal Law Act (Northern Ireland) 1967.

#### Textual Amendments

- F12** Words in [s. 22\(1\)](#) substituted (17.7.1997) by [1997 c. 28, s. 25, Sch. 4 para. 4\(2\)](#); 1997/1539, art. 2, Sch.
- F13** [S. 22\(2A\)](#) inserted (17.7.1997) by [1997 c. 28, s. 25, Sch. 4 para. 4\(3\)](#); S.I. 1997/1539, art. 2, Sch.
- F14** [S. 22\(3A\)](#) inserted (17.7.1997) by [1997 c. 28, s. 25, Sch. 4 para. 4\(4\)](#); S.I. 1997/1539, art. 2, Sch.

#### Modifications etc. (not altering text)

- C6** [S. 22](#) extended (with modifications) (Jersey) (1.1.1997) by [S.I. 1996/2881, art. 2, Sch. Pts. I, II](#)

#### Marginal Citations

- M5** [1984 c. 60](#).
- M6** [S.I. 1987/938 \(N.I. 10\)](#).
- M7** [1984 c. 60](#).
- M8** [1967 c. 58](#).
- M9** [S.I. 1989/1341 \(N.I. 12\)](#).
- M10** [1967 c. 18 \(N.I.\)](#).

## 23 Power to require other persons to promote searches.

- (1) For purposes to which this Part of this Act applies, the Secretary of State may give a direction in writing to any person <sup>F15</sup> . . . who—
- (a) carries on harbour operations in a harbour area, or



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(b) is permitted to have access to a restricted zone of a harbour area for the purposes of the activities of a business carried on by him,  
requiring him to use his best endeavours to secure that such searches to which this section applies as are specified in the direction are carried out by constables or by other persons of a description specified in the direction.

[<sup>F16</sup>(1A) A direction may not be given under this section to—

- (a) a harbour authority, or
- (b) a harbour operator.]

(2) The searches to which this section applies are—

- (a) in relation to a person falling within subsection (1)(a) above, searches—
  - (i) of any land which he occupies within the harbour area, and
  - (ii) of persons or property which may at any time be on that land; and
- (b) in relation to a person falling within subsection (1)(b) above, searches—
  - (i) of any land which he occupies outside the harbour area for the purposes of his business, and
  - (ii) of persons or property which may at any time be on that land.

(3) Any person who, without reasonable excuse, fails to comply with a direction given to him under this section is guilty of an offence and liable—

- (a) on summary conviction, to a fine not exceeding the statutory maximum;
- (b) on conviction on indictment, to a fine or to imprisonment for a term not exceeding two years or to both.

(4) Where a person is convicted of an offence under subsection (3) above, then, if without reasonable excuse the failure in respect of which he was convicted is continued after the conviction, he is guilty of a further offence and liable on summary conviction to a fine not exceeding one-tenth of level 5 on the standard scale for each day on which the failure continues.

#### Textual Amendments

**F15** Words in s. 23(1) repealed (17.7.1997) by 1997 c. 28, ss. 25, 29(2), Sch. 4 para. 5, Sch. 7 Pt. I; S.I. 1997/1539, art. 2, Sch.

**F16** S. 23(1A) inserted (17.7.1997) by 1997 c. 28, s. 25, Sch. 4 para. 5; S.I. 1997/1539, art. 2, Sch.

#### Modifications etc. (not altering text)

**C7** S. 23 extended (with modifications) (Jersey) (1.1.1997) by S.I. 1996/2881, art. 2, Sch. Pts. I, II

## 24 General power to direct measures to be taken for purposes to which Part III applies.

(1) Subsection (2) below applies to—

- (a) any person who is the owner, charterer or manager of one or more ships which—
  - (i) are British ships, or
  - (ii) are in a harbour area,
- (b) any harbour authority,

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- (c) any person other than a harbour authority who carries on harbour operations in a harbour area, and
  - (d) any person who is permitted to have access to a restricted zone of a harbour area for the purposes of the activities of a business carried on by him.
- (2) Subject to the following provisions of this section, the Secretary of State may give a direction in writing to any person to whom this subsection applies requiring him to take such measures for purposes to which this Part of this Act applies as are specified in the direction—
- (a) in the case of a direction given to a person as the owner, charterer or manager of a ship, in respect of all the ships falling within subsection (1)(a) above of which (at the time when the direction is given or at any subsequent time) he is the owner, charterer or manager, or in respect of any such ships specified in the direction,
  - (b) in the case of a direction given to a harbour authority, in respect of the harbour area,
  - (c) in the case of a direction given to a person as a person falling within subsection (1)(c) above, in respect of the harbour operations carried on by him, and
  - (d) in the case of a direction given to a person as a person who is permitted to have access to a restricted zone as mentioned in subsection (1)(d) above, in respect of such activities carried on by that person in that zone as are specified in the direction.
- (3) Without prejudice to the generality of subsection (2) above, the measures to be specified in a direction given under this section to any person to whom that subsection applies may include the provision by that person of persons charged with the duty (at such times as may be specified in the direction)—
- (a) where the direction is given to a person as the owner, charterer or manager of ships, of guarding the ships against acts of violence,
  - (b) where the direction is given to a harbour authority, of guarding the harbour area, or persons or property (including ships) in any part of the harbour area, against acts of violence,
  - (c) where the direction is given to a person as falling within subsection (1)(c) above, of guarding against acts of violence any ship in the harbour area which is for the time being under his control, or
  - (d) where the direction is given to a person as falling within subsection (1)(d) above, of guarding—
    - (i) any land outside the harbour area occupied by him for the purposes of his business, any vehicles or equipment used for those purposes and any goods which are in his possession for those purposes, and
    - (ii) any ship which is for the time being under his control,
 for purposes to which this Part of this Act applies.
- (4) A direction given under this section may be either of a general or of a specific character, and may require any measures specified in the direction to be taken at such time or within such period as may be so specified.
- (5) A direction under this section—
- (a) shall not require any search (whether of persons or of property), and
  - (b) shall not require the modification or alteration of any ship, or of any of its apparatus or equipment, or the installation or carriage of additional apparatus

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or equipment, or prohibit any ship from being caused or permitted to go to sea without some modification or alteration of the ship or its apparatus or equipment or the installation or carriage of additional apparatus or equipment.

- (6) A direction may be given under this section to a person appearing to the Secretary of State to be about to become a person to whom subsection (2) above applies, but a direction given to a person by virtue of this subsection shall not take effect until he becomes a person to whom subsection (2) above applies and, in relation to a direction so given, the preceding provisions of this section shall apply with the necessary modifications.
- (7) Any person who—
- (a) without reasonable excuse, fails to comply with a direction given to him under this section, or
  - (b) intentionally interferes with any building constructed or works executed on any land in compliance with a direction under this section or with anything installed on, under, over or across any land in compliance with such a direction,
- commits an offence.
- (8) A person guilty of an offence under subsection (7) above is liable—
- (a) on summary conviction, to a fine not exceeding the statutory maximum;
  - (b) on conviction on indictment, to a fine or to imprisonment for a term not exceeding two years or to both.
- (9) Where a person is convicted of an offence under subsection (7)(a) above, then, if without reasonable excuse the failure in respect of which he was convicted is continued after the conviction, he is guilty of a further offence and liable on summary conviction to a fine not exceeding one-tenth of level 5 on the standard scale for each day on which the failure continues.
- (10) The ownership of any property shall not be affected by reason only that it is placed on or under, or affixed to, any land in compliance with a direction under this section.

**Modifications etc. (not altering text)**

**C8** S. 24 extended (with modifications) (Jersey) (1.1.1997) by S.I. 1996/2881, art. 2, Sch. Pts. I, II

*Supplemental provisions with respect to directions*

**25 Matters which may be included in directions under sections 21 to 24.**

- (1) A direction under subsection (1) of section 21 or under section 22 or 23 of this Act may specify the minimum number of persons by whom any search to which the direction relates is to be carried out, the qualifications which persons carrying out any such search are to have, the manner in which any such search is to be carried out, and any apparatus, equipment or other aids to be used for the purpose of carrying out any such search.
- (2) A direction under subsection (2) of section 21 of this Act may specify the qualifications required to be had by persons carrying out any modifications or alterations, or the installation of any additional apparatus or equipment, to which the direction relates.

*Status: Point in time view as at 17/07/1997.*

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- (3) A direction under section 24 of this Act may specify—
- (a) the minimum number of persons to be employed for the purposes of any measures required by the direction to be taken by the person to whom it is given, and the qualifications which persons employed for those purposes are to have, and
  - (b) any apparatus, equipment or other aids to be used for those purposes.
- (4) Where a direction under any of the preceding provisions of this Part of this Act requires searches to be carried out, or other measures to be taken, by constables, the direction may require the person to whom it is given to inform the chief officer of police for the police area in which the searches are to be carried out or the other measures taken that the Secretary of State considers it appropriate that constables should be duly authorised to carry, and should carry, firearms when carrying out the searches or taking the measures in question.
- (5) Nothing in subsections (1) to (4) above shall be construed as limiting the generality of any of the preceding provisions of this Part of this Act.
- (6) In this section qualifications includes training and experience.
- (7) In the application of this section to Northern Ireland for the words in subsection (4) above from chief officer to measures taken there are substituted the words chief constable of the Royal Ulster Constabulary.

**Modifications etc. (not altering text)**

**C9** S. 25 extended (with modifications) (Jersey) (1.1.1997) by S.I. 1996/2881, art. 2, Sch. Pts. I, II

**26 Limitations on scope of directions under sections 21 to 24.**

- (1) Without prejudice to section 25(4) of this Act, a direction shall not require or authorise any person to carry a firearm [F17 except to the extent necessary for the purpose of removing any firearm found pursuant to a search under section 22 of this Act from the restricted zone and delivering the firearm to a person authorised to carry it].
- (2) A direction shall not have effect in relation to any ship used in naval, customs or police service.
- (3) A direction shall not have effect in relation to any ship which is registered outside the United Kingdom and of which the owner is the Government of a country outside the United Kingdom, or is a department or agency of such a Government, except at a time when any such ship is being used for commercial purposes or is for the time being allocated by that Government, department or agency for such use.
- (4) A direction (except in so far as it requires any building or other works to be constructed, executed, altered, demolished or removed) shall not be construed as requiring or authorising the person to whom the direction was given, or any person acting as his employee or agent, to do anything which, apart from the direction, would constitute an act of violence; but nothing in this subsection shall restrict the use of such force as is reasonable in the circumstances (whether at the instance of the person to whom the direction was given or otherwise) by a constable, or its use by any other person in the exercise of a power conferred by section 22(3) of this Act.

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- (5) In so far as a direction requires anything to be done or not done at a place outside the United Kingdom—
- (a) it shall not have effect except in relation to British ships, and
  - (b) it shall not have effect so as to require anything to be done or not done in contravention of any provision of the law (whether civil or criminal) in force at that place, other than any such provision relating to breach of contract.
- (6) In so far as a direction given to a harbour authority or to any person mentioned in section 24(1)(c) or (d) of this Act requires a building or other works to be constructed, executed, altered, demolished or removed on land outside the harbour area, or requires any other measures to be taken on such land, the direction shall not confer on the person to whom it is given any rights as against a person having—
- (a) an interest in that land, or
  - (b) a right to occupy that land, or
  - (c) a right restrictive of its use;
- and accordingly, the direction shall not be construed as requiring the person to whom it is given to do anything which would be actionable at the suit or instance of a person having such interest or right in his capacity as a person having that interest or right.
- (7) Nothing in this section shall be construed as derogating from any exemption or immunity of the Crown in relation to the provisions of this Part of this Act.
- (8) In this section direction means a direction under section 21, 22, 23 or 24 of this Act.

#### Textual Amendments

F17 Words in s. 26(1) inserted (1.7.1997) by 1997 c. 28, s. 25, Sch. 4 para. 6; S.I. 1997/1539, art. 2, Sch.

## 27 General or urgent directions under sections 21 to 24.

- (1) A direction given to any person under section 21, 22, 23 or 24 of this Act need not be addressed to that particular person, but may be framed in general terms applicable to all persons to whom such a direction may be given or to any class of such persons to which that particular person belongs.
- (2) If it appears to the Secretary of State that an exception from any direction given under any of those sections is required as a matter of urgency in any particular case he may, by a notification given (otherwise than in writing) to the person for the time being subject to the direction, authorise that person to disregard the requirements of the direction—
- (a) in relation to such ships or class of ships, in relation to such harbour area or part of a harbour area, in relation to such land outside a harbour area, in relation to such activities or in relation to such persons or property or such description of persons or property, and
  - (b) on such occasion or series of occasions, or for such period,
- as he may specify; and the direction shall have effect in that case subject to any exceptions so specified.
- (3) Any notification given to any person under subsection (2) above with respect to any direction shall cease to have effect (if it has not already done so)—
- (a) if a direction in writing is subsequently given to that person varying or revoking the original direction, or

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- (b) if no such direction in writing is given within the period of thirty days beginning with the date on which the notification was given, at the end of that period.
- (4) Any notification given under subsection (2) above shall be regarded as given to the person to whom it is directed if it is given—
  - (a) to any person authorised by that person to receive any such direction or notification,
  - (b) where that person is a body corporate, to the secretary, clerk or similar officer of the body corporate, and
  - (c) in any other case, to anyone holding a comparable office or position in that person's employment.

**Modifications etc. (not altering text)**

**C10** S. 27 extended (with modifications) (Jersey) (1.1.1997) by S.I. 1996/2881, art. 2, Sch. Pts. I, II

**28 Objections to certain directions under section 24.**

- (1) This section applies to any direction given under section 24 of this Act which—
  - (a) requires a person to take measures consisting of or including the construction, execution, alteration, demolition or removal of a building or other works, and
  - (b) does not contain a statement that the measures are urgently required and that accordingly the direction is to take effect immediately.
- (2) At any time before the end of the period of thirty days beginning with the date on which a direction to which this section applies is given, the person to whom the direction is given may serve on the Secretary of State a notice in writing objecting to the direction, on the grounds that the measures specified in the direction, in so far as they relate to the construction, execution, alteration, demolition or removal of a building or other works—
  - (a) are unnecessary and should be dispensed with, or
  - (b) are excessively onerous or inconvenient and should be modified in a manner specified in the notice.
- (3) Where the person to whom such a direction is given serves a notice under subsection (2) above objecting to the direction, the Secretary of State shall consider the grounds of the objection and, if so required by the objector, shall afford to him an opportunity of appearing before and being heard by a person appointed by the Secretary of State for the purpose, and shall then serve on the objector a notice in writing either—
  - (a) confirming the direction as originally given, or
  - (b) confirming it subject to one or more modifications specified in the notice under this subsection, or
  - (c) withdrawing the direction;
 and the direction shall not take effect until it has been confirmed (with or without modification) by a notice served under this subsection.

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**Modifications etc. (not altering text)**

**C11** S. 28 extended (with modifications) (Jersey) (1.1.1997) by S.I. 1996/2881, art. 2, Sch. Pts. I, II

**29 Enforcement notices.**

- (1) Where an authorised person is of the opinion that any person has failed to comply with any general requirement of a direction given to him under section 21, 22, 23 or 24 of this Act, the authorised person may serve on that person a notice (in this Part of this Act referred to as an enforcement notice)—
  - (a) specifying those general requirements of the direction with which he has, in the opinion of the authorised person, failed to comply, and
  - (b) specifying, subject to section 30 of this Act, the measures that ought to be taken in order to comply with those requirements.
- (2) For the purposes of this section a requirement of a direction given by the Secretary of State under section 21, 22, 23 or 24 of this Act is a general requirement if the provision imposing the requirement—
  - (a) has been included in two or more directions given to different persons (whether or not at the same time), and
  - (b) is framed in general terms applicable to all the persons to whom those directions are given.
- (3) If an enforcement notice is served under this section on the owner, charterer or manager of a ship, then (whether or not that service is effected by virtue of section 45(8) of this Act) an authorised person may serve on the master of the ship—
  - (a) a copy of the enforcement notice and of the direction to which it relates, and
  - (b) a notice stating that the master is required to comply with the enforcement notice,

and, if he does so, sections 31, 32 and 33 of this Act shall have effect as if the enforcement notice had been served on him as well as on the owner, charterer or manager of the ship.

**Modifications etc. (not altering text)**

**C12** S. 29 extended (with modifications) (Jersey) (1.1.1997) by S.I. 1996/2881, art. 2, Sch. Pts. I, II

**30 Contents of enforcement notice.**

- (1) An enforcement notice may specify in greater detail measures which are described in general terms in those provisions of the direction to which it relates which impose general requirements, but may not impose any requirement which could not have been imposed by a direction given by the Secretary of State under the provision under which the direction was given.
- (2) An enforcement notice may be framed so as to afford the person on whom it is served a choice between different ways of complying with the specified general requirements of the direction.
- (3) Subject to subsection (4) below, an enforcement notice which relates to a direction given under section 21 of this Act must require the person to whom the direction was

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- given not to cause or permit things to be done as mentioned in subsection (1)(a) or (b) or (2) of that section, as the case requires, until the specified measures have been taken.
- (4) In serving an enforcement notice which relates to a direction under section 21(2) of this Act, the authorised person shall allow, and shall specify in the notice, such period as appears to him to be reasonably required for taking the measures specified in the notice; and the notice shall not take effect before the end of the period so specified.
- (5) An enforcement notice which relates to a direction given under section 22, 23 or 24 of this Act must either—
- (a) require the person to whom the direction was given to take the specified measures within a specified period which—
    - (i) where the measures consist of or include the construction, execution, alteration, demolition or removal of a building or other works, must not be less than thirty days beginning with the date of service of the notice, and
    - (ii) in any other case, must not be less than seven days beginning with that date; or
  - (b) require him not to do specified things, or cause or permit specified things to be done, until the specified measures have been taken.
- (6) Subject to section 33(2) of this Act, an enforcement notice requiring a person not to cause or permit anything to be done shall be construed as requiring him to take all such steps as in any particular circumstances are practicable and necessary to prevent that thing from being done.

**Modifications etc. (not altering text)**

**C13** S. 30 extended (with modifications) (Jersey) (1.1.1997) by S.I. 1996/2881, art. 2, Sch. Pts. I, II

**31 Offences relating to enforcement notices.**

- (1) Any person who, without reasonable excuse, fails to comply with an enforcement notice served on him is guilty of an offence and liable—
- (a) on summary conviction, to a fine not exceeding the statutory maximum;
  - (b) on conviction on indictment, to a fine.
- (2) Where a person is convicted of an offence under subsection (1) above, then, if without reasonable excuse the failure in respect of which he was convicted is continued after the conviction, he is guilty of a further offence and liable on summary conviction to a fine not exceeding one-tenth of level 5 on the standard scale for each day on which the failure continues.
- (3) Any person who intentionally interferes with any building constructed or works executed on any land in compliance with an enforcement notice or with anything installed on, under, over or across any land in compliance with such a notice is guilty of an offence and liable—
- (a) on summary conviction, to a fine not exceeding the statutory maximum;
  - (b) on conviction on indictment, to a fine.



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**Modifications etc. (not altering text)**

**C14** S. 31 extended (with modifications) (Jersey) (1.1.1997) by S.I. 1996/2881, art. 2, Sch. Pts. I, II

**32 Objections to enforcement notices.**

- (1) The person on whom an enforcement notice is served may serve on the Secretary of State a notice in writing of his objection to the enforcement notice, specifying the grounds of the objection.
- (2) Any notice of objection under subsection (1) above must be served—
  - (a) where the enforcement notice specifies measures falling within section 30(5)(a)(i) of this Act, before the end of the period of thirty days beginning with the date on which the enforcement notice was served, or
  - (b) in any other case, before the end of the period of seven days beginning with that date.
- (3) The grounds of objection to an enforcement notice are—
  - (a) that the general requirements of the direction which are specified in the notice for the purposes of section 29(1)(a) of this Act have been complied with,
  - (b) that the notice purports to impose a requirement which could not have been imposed by a direction given under the provision under which the direction to which the notice relates was given, or
  - (c) that any requirement of the notice—
    - (i) is unnecessary for complying with the general requirements specified as mentioned in paragraph (a) above and should be dispensed with, or
    - (ii) having regard to the terms of those general requirements, is excessively onerous or inconvenient and should be modified in a manner specified in the notice of objection under subsection (1) above.
- (4) Where the person on whom an enforcement notice is served serves a notice under subsection (1) above objecting to the enforcement notice, the Secretary of State shall consider the grounds of the objection and, if so required by the objector, shall afford to him an opportunity of appearing before and being heard by a person appointed by the Secretary of State for the purpose, and shall then serve on the objector a notice in writing either—
  - (a) confirming the enforcement notice as originally served, or
  - (b) confirming it subject to one or more modifications specified in the notice under this subsection, or
  - (c) cancelling the enforcement notice.
- (5) An enforcement notice to which an objection has been made under subsection (1) above—
  - (a) if it contains such a requirement as is mentioned in section 30(3) or (5)(b) of this Act, shall continue to have effect as originally served until it has been cancelled, or it has been confirmed subject to modification by a notice under subsection (4) above, and
  - (b) in any other case, shall not take effect until it has been confirmed (with or without modification) by a notice under subsection (4) above.

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**Modifications etc. (not altering text)**

**C15** S. 32 extended (with modifications) (Jersey) (1.1.1997) by S.I. 1996/2881, art. 2, Sch. Pts. I, II

**33 Enforcement notices: supplementary.**

- (1) An enforcement notice served on any person—
  - (a) may be revoked by a notice served on him by an authorised person, and
  - (b) may be varied by a further enforcement notice.
- (2) Sections 25 and 26 of this Act apply to an enforcement notice as they apply to the direction to which the notice relates.
- (3) The ownership of any property shall not be affected by reason only that it is placed on or under or affixed to, any land in compliance with an enforcement notice.
- (4) Where an authorised person has served an enforcement notice specifying the general requirements of a direction with which the person on whom it is served has, in the opinion of the authorised person, failed to comply, the person on whom the notice is served shall not be taken, for the purposes of section 21(8), 22(7), 23(3) or 24(7) of this Act, to have failed to comply with the direction by reason of the matters specified in the notice.
- (5) Subsection (4) above does not apply in relation to any proceedings commenced before the service of the enforcement notice.
- (6) Where an enforcement notice has been served in relation to a direction, the fact that the notice specifies certain general requirements of the direction as those with which the person on whom the notice is served has, in the opinion of the authorised person, failed to comply shall not in any proceedings be evidence that any other requirement of the direction has been complied with.
- (7) In this section direction means a direction under section 21, 22, 23 or 24 of this Act.

**Modifications etc. (not altering text)**

**C16** S. 33 extended (with modifications) (Jersey) (1.1.1997) by S.I. 1996/2881, art. 2, Sch. Pts. I, II

**34 Operation of directions under Part III in relation to rights and duties under other laws.**

- (1) In subsections (2) to (4) below references to a direction are references to a direction under section 21, 22, 23 or 24 of this Act as the direction has effect subject to any limitation imposed on its operation—
  - (a) by section 26 of this Act, or
  - (b) by any exemption or immunity of the Crown;
 and any reference in those subsections to compliance with a direction is a reference to compliance with it subject to any limitation so imposed.
- (2) In so far as a direction requires anything to be done or not done in the United Kingdom, the direction shall have effect notwithstanding anything contained in any contract (whether a United Kingdom contract or not) or contained in, or having effect by virtue

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of, any other Act or any rule of law; and accordingly no proceedings (whether civil or criminal) shall lie against any person in any United Kingdom court by reason of anything done or not done by him or on his behalf in compliance with a direction.

- (3) In so far as a direction requires anything to be done or not done at a place outside the United Kingdom, the direction shall have effect notwithstanding anything contained in any contract (whether a United Kingdom contract or not); and accordingly, where a direction is inconsistent with anything in such a contract, it shall (without prejudice to any proceedings in a court other than a United Kingdom court) be construed as requiring compliance with the direction notwithstanding that compliance would be in breach of that contract.
- (4) No proceedings for breach of contract shall lie against any person in a United Kingdom court by reason of anything done or not done by him or on his behalf at a place outside the United Kingdom in compliance with a direction, if the contract in question is a United Kingdom contract.
- (5) Subsections (1) to (4) above have effect in relation to an enforcement notice as they have effect in relation to a direction under section 21, 22, 23 or 24 of this Act.
- (6) In this section United Kingdom court means a court exercising jurisdiction in any part of the United Kingdom under the law of the United Kingdom or of part of the United Kingdom, and United Kingdom contract means a contract which is either expressed to have effect in accordance with the law of the United Kingdom or of part of the United Kingdom or (not being so expressed) is a contract the law applicable to which is the law of the United Kingdom or of part of the United Kingdom.

**Modifications etc. (not altering text)**

C17 S. 34 extended (with modifications) (Jersey) (1.1.1997) by S.I. 1996/2881, art. 2, Sch. Pts. I, II

### 35 Detention of ships.

- (1) Where an authorised person is satisfied that the owner, charterer, manager or master of a ship has failed to comply with—
  - (a) a direction given to him under section 21 or 24 of this Act in respect of that ship, or
  - (b) an enforcement notice which has been served on him in respect of that ship and which relates to such a direction,and the authorised person certifies in writing to that effect, stating particulars of the non-compliance, the ship may be detained until the authorised person otherwise directs.
- (2) Where the authorised person does not himself detain the ship, he shall deliver the certificate to the officer detaining the ship.
- (3) On detaining the ship, the authorised person or other officer shall deliver to the master of the ship a copy of the certificate.
- (4) Section [F18284 of the Merchant Shipping Act 1995] (enforcement of detention of ships) applies in the case of detention under this section as if it were authorised or ordered under that Act.

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#### **Textual Amendments**

**F18** Words in s. 35(4) substituted (1.1.1996) by 1995 c. 21, ss. 314(2), 316(2), **Sch. 13 para. 88(4)** (with s. 312(1))

#### **Modifications etc. (not altering text)**

**C18** S. 35 extended (with modifications) (Jersey) (1.1.1997) by S.I. 1996/2881, art. 2, Sch. Pts. I, II

### **36 Inspection of ships and harbour areas.**

- (1) For the purpose of enabling the Secretary of State to determine whether to give a direction to any person under any of sections 21 to 24 of this Act, or of ascertaining whether any such direction or any enforcement notice is being or has been complied with, an authorised person shall have power, on production (if required) of his credentials, to inspect—
- (a) any British ship,
  - (b) any other ship while in a harbour area,
  - (c) any part of any harbour area, or
  - (d) any land outside a harbour area which is occupied for the purposes of a business by a person who—
    - (i) carries on (or appears to the authorised person to be about to carry on) harbour operations in a harbour area for the purposes of that business, or
    - (ii) is permitted (or appears to the authorised person to be about to be permitted) to have access to a restricted zone of a harbour area for the purposes of the activities of that business.
- (2) An authorised person inspecting a ship or any part of a harbour area or any land outside a harbour area under subsection (1) above shall have power—
- (a) to subject any property found by him on the ship (but not the ship itself or any apparatus or equipment installed in it) or, as the case may be, to subject that part of the harbour area or any property found by him there or on that land, to such tests,
  - (b) to take such steps—
    - (i) to ascertain what practices or procedures are being followed in relation to security, or
    - (ii) to test the effectiveness of any practice or procedure relating to security, or
  - (c) to require the owner, charterer, manager or master of the ship, the harbour authority [<sup>F19</sup>the occupier of the land or any harbour operator] to furnish to him such information,
- as the authorised person may consider necessary for the purpose for which the inspection is carried out.
- (3) Subject to subsection (4) below, an authorised person, for the purpose of exercising any power conferred on him by subsection (1) or (2) above in relation to a ship, in relation to a harbour area or in relation to any land outside a harbour area, shall have power—
- (a) for the purpose of inspecting a ship, to go on board it and to take all such steps as are necessary to ensure that it is not moved, or

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- (b) for the purpose of inspecting any part of a harbour area, to enter any building or works in the harbour area or enter upon any land in the harbour area, or
  - (c) for the purpose of inspecting any land outside a harbour area, to enter upon the land and to enter any building or works on the land.
- (4) The powers conferred by subsection (3) above shall not include power for an authorised person to use force for the purpose of going on board any ship, entering any building or works or entering upon any land.
- (5) Any person who—
- (a) without reasonable excuse, fails to comply with a requirement imposed on him under subsection (2)(c) above, or
  - (b) in furnishing any information so required, makes a statement which he knows to be false in a material particular, or recklessly makes a statement which is false in a material particular,
- commits an offence.
- (6) A person guilty of an offence under subsection (5) above is liable—
- (a) on summary conviction, to a fine not exceeding the statutory maximum;
  - (b) on conviction on indictment, to a fine or to imprisonment for a term not exceeding two years or to both.

#### **Textual Amendments**

**F19** Words in s. 36(2)(c) substituted (1.7.1997) by 1997 c. 28, s. 25, **Sch. 4 para. 7**; S.I. 1997/1539, art. 2, **Sch.**

#### **Modifications etc. (not altering text)**

**C19** S. 36 extended (with modifications) (Jersey) (17.1.1997) by S.I. 1996/2881, art. 2, **Sch. Pts. I, II**

### *Offences relating to security of ships and harbour areas.*

## **37 False statements relating to baggage, cargo etc.**

- (1) Subject to subsection (3) below, a person commits an offence if, in answer to a question which—
- (a) relates to any baggage, cargo or stores (whether belonging to him or to another) that is or are intended for carriage by sea—
    - (i) by a British ship, or
    - (ii) by any other ship to or from the United Kingdom, and
  - (b) is put to him for purposes to which this Part of this Act applies—
    - (i) by any of the persons mentioned in subsection (2) below,
    - (ii) by any employee or agent of such a person in his capacity as employee or agent, or
    - (iii) by a constable,
- he makes a statement which he knows to be false in a material particular, or recklessly makes a statement which is false in a material particular.
- (2) The persons referred to in subsection (1)(b) above are—
- (a) a harbour authority,

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- [<sup>F20</sup>(aa) a harbour operator,]
- (b) the owner, charterer or manager of any ship, and
- (c) any person who—
  - (i) is permitted to have access to a restricted zone of a harbour area for the purposes of the activities of a business carried on by him, and
  - (ii) has control in that restricted zone over the baggage, cargo or stores to which the question relates.
- (3) Subsection (1) above does not apply in relation to any statement made by an authorised person in the exercise of the power conferred by section 36(2)(b) of this Act.
- (4) A person guilty of an offence under subsection (1) above is liable on summary conviction to a fine not exceeding level 5 on the standard scale.
- (5) In this section—
  - cargo includes mail;
  - ship does not include a ship used in naval, customs or police service; and
  - stores means any goods intended for sale or use in a ship, including fuel and spare parts and other articles of equipment, whether or not for immediate fitting.

#### **Textual Amendments**

**F20** S. 37(2)(aa) inserted (17.7.1997) by 1997 c. 28, s. 25, **Sch. 4 para. 8**; S.I. 1997/1539, art. 2, **Sch.**

#### **Modifications etc. (not altering text)**

**C20** S. 37 extended (with modifications) (Jersey) (1.1.1997) by S.I. 1996/2881, art. 2, **Sch. Pts. I, II**

### **38 False statements in connection with identity documents.**

- (1) Subject to subsection (4) below, a person commits an offence if—
  - (a) for the purpose of, or in connection with, an application made by him or another for the issue of an identity document to which this subsection applies, or
  - (b) in connection with the continued holding by him or another of any such document which has already been issued,
 he makes to any of the persons specified in subsection (3) below, to any employee or agent of such a person or to a constable, a statement which he knows to be false in a material particular, or recklessly makes to any of those persons, to any such employee or agent or to a constable, a statement which is false in a material particular.
- (2) Subsection (1) above applies to any identity document which is to be or has been issued by any of the persons specified in subsection (3) below in accordance with arrangements the maintenance of which is required by a direction given by the Secretary of State under section 24 of this Act.
- (3) The persons referred to in subsection (1) above are—
  - (a) a harbour authority,
  - [<sup>F21</sup>(aa) a harbour operator,]
  - (b) the owner, charterer or manager of any ship, and

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- (c) any person who is permitted to have access to a restricted zone of a harbour area for the purposes of the activities of a business carried on by him.
- (4) Subsection (1) above does not apply in relation to any statement made by an authorised person in the exercise of the power conferred by section 36(2)(b) of this Act.
- (5) A person guilty of an offence under subsection (1) above is liable on summary conviction to a fine not exceeding level 5 on the standard scale.

#### Textual Amendments

**F21** S. 38(3)(aa) inserted (17.7.1997) by 1997 c. 28, s. 25, **Sch. 4 para. 9**; S.I. 1997/1539, art. 2, **Sch.**

#### Modifications etc. (not altering text)

**C21** S. 38 extended (with modifications) (Jersey) (1.1.1997) by S.I. 1996/2881, art. 2, **Sch. Pts. I, II**

### 39 Unauthorised presence in restricted zone.

- (1) A person shall not—
  - (a) go, with or without a vehicle or vessel, onto or into any part of a restricted zone of a harbour area except with the permission of [<sup>F22</sup>the competent authority, or a person acting on behalf of that authority] and in accordance with any conditions subject to which that permission is for the time being granted, or
  - (b) remain in any part of such a restricted zone after being requested to leave by [<sup>F22</sup>the competent authority, or a person acting on behalf of that authority].
- (2) Subsection (1)(a) above does not apply unless it is proved that, at the material time, notices stating that the area concerned was a restricted zone were posted so as to be readily seen and read by persons entering the restricted zone.
- [<sup>F23</sup>(2A) A constable or any person acting on behalf of the competent authority may use such force as is reasonable in the circumstances to remove from a restricted zone a person remaining in it in contravention of subsection (1)(b) above.
- (2B) For the purposes of this section the competent authority in relation to a restricted zone is—
  - (a) if the zone was designated on the application of a harbour authority, that authority; and
  - (b) if the zone was designated on the application of a harbour operator, that operator.]
- (3) A person who contravenes subsection (1) above without lawful authority or reasonable excuse is guilty of an offence and liable on summary conviction to a fine not exceeding level 5 on the standard scale.

#### Textual Amendments

**F22** Words in s. 39(1)(a)(b) substituted (17.7.1997) by 1997 c. 28, s. 25, **Sch. 4 para. 10(2)**; S.I. 1997/1539, art. 2, **Sch.**

**F23** S. 39(2A)(2B) inserted (17.7.1997) by 1997 c. 28, s. 25, **Sch. 4 para. 10(3)**; S.I. 1997/1539, art. 2, **Sch.**

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**Modifications etc. (not altering text)**

**C22** S. 39 extended (with modifications) (Jersey) (1.1.1997) by S.I. 1996/2881, art. 2, Sch. Pts. I, II

**40 Offences relating to authorised persons.**

- (1) A person who—
  - (a) intentionally obstructs an authorised person acting in the exercise of a power conferred on him by or under this Part of this Act, or
  - (b) falsely pretends to be an authorised person, commits an offence.
- (2) A person guilty of an offence under subsection (1)(a) above is liable—
  - (a) on summary conviction, to a fine not exceeding the statutory maximum;
  - (b) on conviction on indictment, to a fine or to imprisonment for a term not exceeding two years or to both.
- (3) A person guilty of an offence under subsection (1)(b) above is liable on summary conviction to a fine not exceeding level 5 on the standard scale.

**Modifications etc. (not altering text)**

**C23** S. 40 extended (with modifications) (Jersey) (1.1.1997) by S.I. 1996/2881, art. 2, Sch. Pts. I, II

*Sea cargo agents*

**41 Sea cargo agents.**

- (1) The Secretary of State may by regulations made by statutory instrument make provision, for purposes to which this Part of this Act applies, in relation to persons (in this section referred to as sea cargo agents) who carry on a business of handling cargo which is to be delivered (whether by them or any other person) to the owner, charterer or manager of any ship for carriage by sea from any harbour area.
- (2) Regulations under this section may, in particular—
  - (a) enable the Secretary of State to maintain a list of sea cargo agents who are approved by him for purposes related to maritime security, to include the name of a sea cargo agent on that list, on application being made to the Secretary of State in accordance with the regulations, if he is satisfied as to such matters as are specified in the regulations, and to remove the name of any person from that list in such circumstances as are so specified,
  - (b) provide that any provision of this Part of this Act which applies in relation to persons who are permitted to have access to a restricted zone of a harbour area for the purposes of the activities of a business (including any such provision which creates a criminal offence) shall also apply, with such modifications as are specified in the regulations, in relation to sea cargo agents included on any such list,
  - (c) amend sections 37(2) and 38(3) of this Act by including references to sea cargo agents included on any such list,



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- (d) make provision (including any such provision as is mentioned in paragraphs (a) to (c) above) relating to a class of sea cargo agents specified in the regulations and not to other sea cargo agents,
  - (e) make different provision for different cases, and
  - (f) make such incidental, supplementary or transitional provision as the Secretary of State considers necessary or expedient in consequence of any provision made by the regulations.
- (3) Before making any regulations under this section the Secretary of State shall consult organisations appearing to him to represent persons affected by the proposed regulations.
- (4) Any statutory instrument containing regulations under this section shall be subject to annulment in pursuance of a resolution of either House of Parliament.
- (5) Without prejudice to the generality of sections 21 and 24 of this Act, the exemptions that may be included in any direction given to an owner, charterer, manager or master of a ship under section 21 or 24 which requires the carrying out of searches of cargo, or the taking of any other measures in relation to cargo, include exemptions from such requirements in relation to cargo received from any sea cargo agent included on any list maintained by the Secretary of State under regulations under this section or from any sea cargo agent falling within a class of such sea cargo agents specified in the direction.
- (6) In this section—
- cargo includes stores and mail;
  - carriage by sea does not include carriage by any ship used in naval, customs or police service; and
  - stores means any goods intended for sale or use in a ship, including fuel and spare parts and other articles of equipment, whether or not for immediate fitting.

**Modifications etc. (not altering text)**

**C24** S. 41 extended (with modifications) (Jersey) (1.1.1997) by S.I. 1996/2881, art. 2, Sch. Pts. I, II

*Reporting of certain occurrences*

**42 Duty to report certain occurrences.**

- (1) For purposes to which this Part of this Act applies, the Secretary of State may by regulations made by statutory instrument require such persons as are specified in the regulations to make a report to him, in such manner and within such period as are so specified, of any occurrence of a description so specified.
- (2) Before making any regulations under this section, the Secretary of State shall consult organisations appearing to him to represent persons affected by the proposed regulations.
- (3) Regulations under this section may—
- (a) provide that any person who, in making a report required by the regulations, makes a statement which he knows to be false in a material particular, or

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recklessly makes a statement which is false in a material particular, is to be guilty of an offence and liable—

- (i) on summary conviction, to a fine not exceeding the statutory maximum;
  - (ii) on conviction on indictment, to a fine or to imprisonment for a term not exceeding two years or to both; and
- (b) provide for persons to be guilty of an offence in such other circumstances as may be specified in the regulations and to be liable on summary conviction to a fine not exceeding level 5 on the standard scale.
- (4) Regulations under this section may require the reporting of occurrences taking place outside the United Kingdom only if those occurrences relate to British ships.
- (5) Any statutory instrument containing regulations under this section shall be subject to annulment in pursuance of a resolution of either House of Parliament.

**Modifications etc. (not altering text)**

**C25** [S. 42](#) extended (with modifications) (Jersey) (1.1.1997) by [S.I. 1996/2881, art. 2, Sch. Pts. I, II](#)

*General supplemental provisions*

**43 Compensation in respect of certain measures taken under Part III.**

- (1) The provisions of this section have effect where, in compliance with a direction under section 24 of this Act or in compliance with an enforcement notice, the person to whom the direction was given or on whom the notice was served takes any measures consisting of the construction, execution, alteration, demolition or removal of a building or other works on land either within or outside a harbour area.
- (2) If the value of any interest in that land to which a person is entitled is depreciated in consequence of the taking of those measures, or the person having such an interest suffers loss in consequence of them by being disturbed in his enjoyment of any of that land, he is entitled to compensation equal to the amount of the depreciation or loss.
- (3) If any land other than the land on which the measures are taken is injuriously affected by the taking of those measures, any person having an interest in that other land who suffers loss in consequence of its being injuriously affected is entitled to compensation equal to the amount of the loss.
- (4) Any compensation to which a person is entitled under this section shall be payable to him by the person by whom the measures in question were taken.
- (5) The provisions of Schedule 2 to this Act have effect for the purposes of this section; and subsections (1) to (4) above have effect subject to the provisions of that Schedule.

**Modifications etc. (not altering text)**

**C26** [S. 43](#) extended (with modifications) (Jersey) (1.1.1997) by [S.I. 1996/2881, art. 2, Sch. Pts. I, II](#)

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#### **44 Annual report by Secretary of State as to notices and directions under Part III.**

- (1) The Secretary of State shall, on or before 31st January in each year, lay before each House of Parliament a report stating the number of notices served by him under section 19 of this Act, the number of directions given by him under sections 21, 22, 23 and 24 of this Act and the number of enforcement notices served by authorised persons during the period of twelve months which expired with the preceding December.
- (2) Each such report shall deal separately with notices served under section 19 of this Act, directions given under section 21 of this Act, directions given under section 22 of this Act, directions given under section 23 of this Act, directions given under section 24 of this Act and enforcement notices, and, in relation to each of those matters, shall show separately—
  - (a) the number of notices or directions which, during the period to which the report relates, were served on or given to persons as being, or as appearing to the Secretary of State to be about to become, owners, charterers, managers or masters of ships,
  - (b) the number of notices or directions which during that period were served on or given to persons as being, or as appearing to the Secretary of State to be about to become, harbour authorities,
  - (c) the number of notices or directions which during that period were served on or given to persons as being, or as appearing to the Secretary of State to be about to become, persons carrying on harbour operations in a harbour area, and
  - (d) the number of notices or directions which during that period were served on or given to persons as being, or as appearing to the Secretary of State to be about to become, persons permitted to have access to a restricted zone of a harbour area for the purposes of the activities of a business.
- (3) Each such report shall also show separately the number of copies of enforcement notices which during that period were served on masters of ships under section 29(3) of this Act.

#### **45 Service of documents.**

- (1) This section has effect in relation to any notice, any document containing a direction and any other document authorised or required by any provision of this Part of this Act to be served on or given to any person.
- (2) Any such document may be given to or served on any person—
  - (a) by delivering it to him, or
  - (b) by leaving it at his proper address, or
  - (c) by sending it by post to him at that address, or
  - (d) by sending it to him at that address by telex or other similar means which produce a document containing the text of the communication.
- (3) Any such document may, in the case of a body corporate, be given to or served on the secretary, clerk or similar officer of that body.
- (4) For the purposes of this section and section 7 of the <sup>M11</sup>Interpretation Act 1978 (service of documents by post) in its application to this section, the proper address of any person to whom or on whom any document is to be given or served is his usual or last known address or place of business (whether in the United Kingdom or elsewhere), except that in the case of a body corporate or its secretary, clerk or similar officer it shall be

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- the address of the registered or principal office of that body in the United Kingdom (or, if it has no office in the United Kingdom, of its principal office, wherever it may be).
- (5) In the case of a person registered under any of the United Kingdom registration provisions as the owner of any ship so registered, the address for the time being recorded in relation to him in the register in which the ship is registered shall also be treated for the purposes of this section and section 7 of the <sup>M12</sup>Interpretation Act 1978 as his proper address.
- (6) If the person to or on whom any document mentioned in subsection (1) above is to be given or served has notified the Secretary of State of an address within the United Kingdom, other than an address determined under subsection (4) or (5) above, as the one at which he or someone else on his behalf will accept documents of the same description as that document, that address shall also be treated for the purposes of this section and section 7 of the Interpretation Act 1978 as his proper address.
- (7) Any document mentioned in subsection (1) above shall, where there are two or more owners registered under any of the United Kingdom registration provisions, be treated as duly served on each of those owners—
- (a) in the case of a ship in relation to which a managing owner is for the time being registered under [<sup>F24</sup>registration regulations], if served on that managing owner, and
  - (b) in the case of any other ship, if served on any one of the registered owners.
- (8) Where an enforcement notice is to be served under section 29 of this Act on the owner, charterer or manager of a ship, it shall be treated as duly served on him if it is served on the master of the ship in question, but (except as provided by section 29(3) of this Act) the master shall not be obliged by virtue of this subsection to comply with the notice.
- (9) Where any document mentioned in subsection (1) above is to be served (for the purposes of subsection (8) above or otherwise) on the master of a ship, it shall be treated as duly served if it is left on board that ship with the person being or appearing to be in command or charge of the ship.
- (10) In this section the United Kingdom registration provisions [<sup>F25</sup>mean Part II of the Merchant Shipping Act 1995, or any Order in Council under section 1 of the Hovercraft Act 1968.]

#### **Textual Amendments**

- F24** Words in s. 45(7)(a) substituted (1.1.1996) by 1995 c. 21, ss. 314(2), 316(2), **Sch. 13 para. 88(5)(a)** (with s. 312(1))
- F25** Words in s. 45(10) substituted (1.1.1996) by 1995 c. 21, ss. 314(2), 316(2), **Sch. 13 para. 88(5)(b)** (with s. 312(1))

#### **Modifications etc. (not altering text)**

- C27** S. 45 extended (with modifications) (Jersey) (1.1.1997) by S.I. 1996/2881, art. 2, Sch. Pts. I, II

#### **Marginal Citations**

- M11** 1978 c. 30.  
**M12** 1978 c. 30.

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*Changes to legislation: There are currently no known outstanding effects for the Aviation and Maritime Security Act 1990, Part III. (See end of Document for details)*

## 46 Interpretation of Part III.

- (1) In this Part of this Act, except in so far as the context otherwise requires—
- act of violence shall be construed in accordance with section 18(2) of this Act,
  - article includes any substance, whether in solid or liquid form or in the form of a gas or vapour,
  - authorised person means a person authorised in writing by the Secretary of State for the purposes of this Part of this Act,
  - British ship means a ship which—
    - (a) is registered in the United Kingdom under [F26Part II of the Merchant Shipping Act 1995] or any Order in Council under section 1 of the M13Hovercraft Act 1968, or
    - (b) is not registered under the law of any country and is entitled to be registered in the United Kingdom under [F26Part II of the Merchant Shipping Act 1995],
  - constable includes any person having the powers and privileges of a constable,
  - employee, in relation to a body corporate, includes officer,
  - enforcement notice has the meaning given by section 29(1) of this Act,
  - explosive means any article manufactured for the purpose of producing a practical effect by explosion, or intended for that purpose by a person having the article with him,
  - firearm includes an airgun or air pistol,
  - [F27harbour has the same meaning as in the M14Merchant Shipping Act 1995;]
  - harbour area has the meaning given by section 18(3) of this Act,
  - [F28harbour authority means—
    - (a) a harbour authority within the meaning of the M15Merchant Shipping Act 1995, or
    - (b) the manager of any hoverport which does not form part of an area mentioned in section 18(3)(a)(i) or (ii) of this Act.]
  - [F29harbour operations means—
    - (a) the marking or lighting of a harbour or any part of it,
    - (b) the berthing or dry docking of a ship or the towing or moving of a ship into or out of or within the harbour area,
    - (c) the transportation, handling or warehousing of goods within the harbour area, or
    - (d) the embarking, disembarking or movement of passengers within the harbour area;
  - harbour operator has the meaning given by section 20(9) of this Act;]
  - hoverport has the same meaning as in the Hovercraft Act 1968,
  - manager, in relation to a hoverport, means the person by whom the hoverport is managed,
  - master has the same meaning as in the [F30Merchant Shipping Act 1995],
  - measures (without prejudice to the generality of that expression) includes the construction, execution, alteration, demolition or removal of any building or other works (whether on dry land or on the seabed or other land covered by water), and also includes the institution or modification, and the supervision and enforcement, of any practice or procedure,

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naval service includes military and air force service,  
 [<sup>F31</sup>operating area has the meaning given by section 20(9) of this Act;]  
 owner, in relation to a ship registered in the United Kingdom or in any other country, means registered owner,  
 property includes any land, buildings or works, any ship or vehicle and any baggage, cargo or other article of any description,  
<sup>F32</sup>  
 . . . .  
 ship includes hovercraft and every other description of vessel used in navigation.

(2) Any power to give a direction under any provision of this Part of this Act includes power to revoke or vary any such direction by a further direction.

[<sup>F33</sup>(2A) In this Part of this Act restricted zone means an area designated under section 20 of this Act; and references to a restricted zone of a harbour area include references to a restricted zone which is or is part of an operating area.]

(3) For the purposes of this Part of this Act a person is permitted to have access to a restricted zone of a harbour area if he is permitted to enter that zone or if arrangements exist for permitting any of his employees or agents to enter that zone.

#### **Textual Amendments**

- F26** Words in the definition of "British Ship" in s. 46(1) substituted (1.1.1996) by 1995 c. 21, ss. 314(2), 316(2), **Sch. 13 para. 88(6)(a)(i)(ii)** (with s. 312(1))
- F27** Definition of "harbour" in s. 46(1) substituted (17.7.1997) by 1997 c. 28, s. 25, **Sch. 4 para. 11(2)(a)**; S.I. 1997/1539, art. 2, **Sch.**
- F28** Definition of "harbour authority" in s. 46(1) substituted (17.7.1997) by 1997 c. 28, s. 25, **Sch. 4 para. 11(2)(b)**; S.I. 1997/1539, art. 2, **Sch.**
- F29** Definitions of "harbour operations" and "harbour operator" in s. 46(1) substituted (17.7.1997) by 1997 c. 28, s. 25, **Sch. 4 para. 11(2)(c)**; S.I. 1997/1539, art. 2, **Sch.**
- F30** Words in the definition of "master" in s. 46(1) substituted (1.1.1996) by 1995 c. 21, ss. 314(2), 316(2), **Sch. 13 para. 88(6)(b)** (with s. 312(1))
- F31** Definition of "operating area" in s. 46(1) inserted (17.7.1997) by 1997 c. 28, s. 25, **Sch. 4 para. 11(2)(d)**; S.I. 1997/1539, art. 2, **Sch.**
- F32** Definition of "restricted zone" in s. 46(1) repealed (17.7.1997) by 1997 c. 28, ss. 25, 29(2), Sch. 4 para. 11(2)(e), **Sch. 7 Pt. I**; S.I. 1997/1539, art. 2, **Sch.**
- F33** S. 46(2A) inserted (17.7.1997) by 1997 c. 28, s. 25, **Sch. 4 para. 11(3)**; S.I. 1997/1539, art. 2, **Sch.**

#### **Modifications etc. (not altering text)**

- C28** S. 46 extended (with modifications) (Jersey) (1.1.1997) by S.I. 1996/2881, art. 2, Sch. Pts. I, II

#### **Marginal Citations**

- M13** 1968 c. 59.  
**M14** 1995 c. 21.  
**M15** 1995 c. 21.

**Status:**

Point in time view as at 17/07/1997.

**Changes to legislation:**

There are currently no known outstanding effects for the Aviation and Maritime Security Act 1990, Part III.