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Merchant Shipping Act 1995

1995 CHAPTER 21

PART V

FISHING VESSELS

CHAPTER I

SKIPPER AND SEAMEN

Engagement and discharge of crews

109 Regulations relating to crew agreements.

- (1) The Secretary of State may make regulations prescribing the procedure to be followed in connection with the making of crew agreements between persons employed in United Kingdom fishing vessels and persons employing them and prescribing the places where such crew agreements are to be made or where an agreement with any person may be added to those contained in such a crew agreement.
- (2) Regulations under this section may make a contravention of any provision thereof an offence punishable on summary conviction with a fine not exceeding level 3 on the standard scale or such less amount as may be specified in the regulations.

Wages

110 Payments of seamen's wages.

Except as provided by or under Part III or any other enactment, the wages due to a seaman under a crew agreement relating to a United Kingdom fishing vessel shall be paid to him in full.

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PROSPECTIVE

111 Regulations relating to wages: deductions.

The power to make regulations conferred by section 32 shall include power to provide that the amount of a deduction of a description specified in the regulations from wages in respect of employment in a fishing vessel is to be determined by a body established or approved by the Secretary of State in pursuance of regulations made under section 60.

Commencement Information

II S. 111 not in force at Royal Assent see s. 134, Sch. 14 para. 5

112 Accounts of wages and catch.

- (1) Subject to regulations made under section 32 or 73, the persons employing any seaman under a crew agreement relating to a United Kingdom fishing vessel shall deliver to him at a time prescribed by regulations under this section an account of the wages due to him under that crew agreement and of the deductions subject to which the wages are payable.
- (2) Where the wages of any person employed in a United Kingdom fishing vessel are in any manner related to the catch the persons employing him shall at a time prescribed by regulations under this section deliver to the master an account (or, if the master is the person employing him, make out an account) showing how those wages (or any part thereof related to the catch) are arrived at and shall make the account available to the crew in such manner as may be prescribed by the regulations.
- (3) Where there is a partnership between the master and any members of the crew of a United Kingdom fishing vessel the owner of the vessel shall at a time prescribed by regulations under this section make out an account showing the sums due to each partner in respect of his share and shall make the account available to the partners.
- (4) The Secretary of State may make regulations prescribing the time at which any account required by this section is to be delivered or made out and the manner in which the account required by subsections (2) and (3) above is to be made available.
- (5) If a person fails without reasonable excuse to comply with the preceding provisions of this section he shall be liable on summary conviction to a fine not exceeding level 2 on the standard scale.

113 Restriction on assignment of and charge upon wages.

- (1) Nothing in section 34 shall affect the operation of—
 - (a) the ^{M1}Attachment of Earnings Act 1971, or
 - (b) without prejudice to Article 97(2) of the ^{M2}Judgments Enforcement (Northern Ireland) Order 1981, Articles 73 to 79 and 97 to 105 of that Order, in relation to wages due to a person employed in a fishing vessel.

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- (2) The provisions of the ^{M3}Magistrates' Courts (Northern Ireland) Order 1981 and the Judgments Enforcement (Northern Ireland) Order 1981 relating to the attachment of wages shall apply in relation to wages due to a person employed in a fishing vessel as they apply in relation to other wages.

Marginal Citations

- M1 1971 c. 32.
M2 S.I. 1981/226 (NI 6).
M3 S.I. 1981/1675 (NI 26).

114 Right, or loss of right, to wages in certain circumstances.

Section 38 does not apply to so much of the wages of a seaman employed in a fishing vessel as is in any manner related to the catch.

PROSPECTIVE

Safety, health and welfare

115 Hours of work.

- (1) The Secretary of State may make regulations prescribing maximum periods of duty and minimum periods of rest for seamen employed in United Kingdom fishing vessels, and such regulations may make different provision for different descriptions of fishing vessels or seamen employed in them or for fishing vessels and seamen of the same description in different circumstances.
- (2) If any provision of regulations made under this section is contravened in the case of any seaman employed in a fishing vessel the persons employing him and the master shall each be liable on summary conviction to a fine not exceeding level 4 on the standard scale.

Commencement Information

- I2 S. 115 not in force at Royal Assent see s. 134, Sch. 14 para. 5

VALID FROM 01/02/1998

Manning and qualifications

116 Production of crew certificates and other documents of qualification.

- (1) Any person serving or engaged to serve in a United Kingdom fishing vessel and holding any certificate or other document which is evidence that he is qualified for the purposes of section 47 shall on demand produce it to any person who is a British sea-fishery officer for the purposes of the Sea Fisheries Acts.

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- (2) If a person fails without reasonable excuse to produce on demand any such certificate or other document he shall be liable on summary conviction to a fine not exceeding level 3 on the standard scale.
- (3) In this section the “Sea Fisheries Acts” means any enactment for the time being in force relating to sea fishing, including any enactment relating to fishing for shellfish, salmon or migratory trout.

Commencement Information

- I3** S. 116 wholly in force; s. 116 not in force at Royal Assent see s. 314, Sch. 14 para. 5; s. 116 in force at 1.2.1998 by S.I. 1997/3107, art. 2

Offences by seamen

117 Drunkenness on duty.

- (1) If the skipper of or a seaman employed or engaged in a United Kingdom fishing vessel is, while on board the vessel, under the influence of drink or a drug to such an extent that his capacity to fulfil his responsibility for the vessel or, as the case may be, carry out the duties of his employment or engagement is impaired, he shall (subject to subsection (2) below) be liable-
 - (a) on summary conviction, to a fine not exceeding the statutory maximum;
 - (b) on conviction on indictment, to imprisonment for a term not exceeding two years or a fine or both.
- (2) In proceedings for an offence under this section it shall be a defence to prove that at the time of the act or omission alleged against the accused he was under the influence of a drug taken by him for medical purposes and either that he took it on medical advice and complied with any directions given as part of that advice or that he had no reason to believe that the drug might have the influence it had.

PROSPECTIVE

118 Unauthorised liquor.

- (1) A person who, in the United Kingdom or elsewhere—
 - (a) takes any unauthorised liquor on board a United Kingdom fishing vessel;
 - (b) has any unauthorised liquor in his possession on board such a vessel;
 - (c) permits another person to take on board such a vessel, or to have in his possession on board such a vessel, any unauthorised liquor; or
 - (d) intentionally obstructs another person in the exercise of powers conferred on the other person by subsection (5) below,
 shall, subject to subsections (3) and (4) below, be guilty of an offence.
- (2) A person guilty of an offence under subsection (1) above shall be liable—
 - (a) on summary conviction, to a fine not exceeding the statutory maximum;

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- (b) on conviction on indictment, to imprisonment for a term not exceeding two years or a fine or both.
- (3) It shall be a defence in proceedings for an offence under subsection (1)(a) or (b) above to prove—
 - (a) that the accused believed that the liquor in question was not unauthorised liquor in relation to the vessel in question and that he had reasonable grounds for the belief; or
 - (b) that the accused did not know that the liquor in question was in his possession.
- (4) It shall be a defence in proceedings for an offence under subsection (1)(c) above to prove that the accused believed that the liquor in question was not unauthorised liquor in relation to the vessel in question and that he had reasonable grounds for the belief.
- (5) If an authorised person has reason to believe that an offence under subsection (1)(a) or (b) above has been committed by another person in connection with a fishing vessel, the authorised person—
 - (a) may go on board the vessel and search it and any property on it and may, if the other person is on board the vessel, search him there in an authorised manner; and
 - (b) may take possession of any liquor which he finds on the vessel and has reason to believe is unauthorised liquor and may detain the liquor for the period needed to ensure that the liquor is available as evidence in proceedings for the offence.
- (6) In this section—
 - “an authorised manner” means a manner authorised by regulations made by the Secretary of State;
 - “authorised person”, in relation to a vessel, means—
 - (a) a superintendent;
 - (b) a proper officer;
 - (c) a person appointed in pursuance of section 258(1)(c);
 - (d) the master of the vessel in question;
 - (e) the owner of the vessel in question;
 - (f) any person instructed by the master or owner to prevent the commission of offences under subsection (1) above in relation to the vessel;
 - “liquor” means spirits, wine, beer, cider, perry and any other fermented, distilled or spirituous liquor; and
 - “unauthorised liquor” means, in relation to a vessel, liquor as to which permission to take it on board the vessel has been given neither by the master nor the owner of the vessel nor by a person authorised by the owner of the vessel to give such permission.
- (7) Any reference in subsection (6) above to the owner of a vessel shall be construed—
 - (a) as excluding any member of the crew of the vessel; and
 - (b) subject to that, as a reference to the person or all the persons who, in the certificate of registration of the vessel, is or are stated to be the registered owner or owners of the vessel.

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Commencement Information

I4 S. 118 not in force at Royal Assent see s. 314, Sch. 14 para. 5

119 Disciplinary offences.

- (1) Section 59(1)(a) and (b) shall not apply to fishing vessels and persons serving in them.
- (2) In relation to United Kingdom fishing vessels, section 60 shall have effect with the substitution for subsection (2) of the following—
 - (2) Regulations may provide for the hearing on shore in the United Kingdom, by a disciplinary body, of a complaint by the master or owner of such a fishing vessel against a seaman alleging that during his employment in the vessel, the seaman contravened a local industrial agreement relating to his employment on the vessel and for requiring the disciplinary body to have regard to the agreement in determining whether the allegation is proved.

The alleged contravention may be one on or off the ship and in the United Kingdom or elsewhere.
- (3) Regulations under section 60 may include provision authorising persons to determine, for the purposes of that section in its application to United Kingdom fishing vessels 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.

Commencement Information

I5 S. 119 partly in force; s. 119(1) in force at 1.1.1996, see ss. 314, 316(2), Sch. 14 para. 5

Exemptions

120 Power to grant exemptions from this Chapter.

The Secretary of State may grant exemptions from any requirements of Part III or this Chapter or of any regulations made thereunder—

- (a) with respect to any fishing vessel or to a fishing vessel of any description; or
- (b) with respect to any person or a person of any description serving in a fishing vessel or in a fishing vessel of any description;

and nothing in any other provision of Part III or this Chapter conferring a power to provide for or grant exemptions shall be taken to restrict the power conferred by this section.

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