



Merchant Shipping Act 1995

1995 CHAPTER 21

PART XIII

SUPPLEMENTAL

Subordinate Legislation

306 Regulations, rules and orders, etc.

^{F1}(1) Subject to subsection (1A) below, any power of the Secretary of State to make regulations, orders or rules under this Act shall be exercisable by statutory instrument.

^{F1}(1A) Subsection (1) above does not apply to—

- (a) rules made under section 91; or
- (b) any instrument made under section 128(4)(f) other than an instrument containing regulations.]

^{F2}(2) Subject to subsection (2A) below—

- (a) any statutory instrument containing regulations under this Act (including such an instrument made by virtue of section 128(4)(f) or 182B(4)(e)), and
 - (b) any statutory instrument containing an order or rules made under this Act,
- shall be subject to annulment in pursuance of a resolution of either House of Parliament.

^{F2}(2A) Subsection (2) above does not apply to—

- (a) regulations made under section 130A, 259(8) or 260(3) or Schedule 11A;
- (b) commencement orders;
- (c) any order made under section 216(2), 223(3) [^{F3}, 255G(3)(c), 255Q(2), 255U(1)], paragraph 8 of Part II of Schedule 7, or any provision of Schedule 14.]

(3) Any statutory instrument containing an Order in Council under this Act shall be subject to annulment in pursuance of a resolution of either House of Parliament but

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this subsection does not apply to Orders under section 2(4), 128, 129, 152(2), 172(2), [F⁴182B(1)] 183, 184, [F⁵185(2A) or (2B)]224, 308 or 315(2) or under F⁶. . . paragraph 10 of Part II of Schedule 6 or paragraph 13 of Part II of Schedule 7.

(4) Before making the following regulations, rules or orders, namely—

- (a) regulations under Part III or [F⁷section 108 or 130A];
- (b) rules under Chapter II of Part V;
- (c) an order under section 311,

the Secretary of State shall consult with organisations in the United Kingdom appearing to him representative of persons who will be affected by the regulations, rules or orders.

(5) Any direction, notice, order or authorisation under this Act given or made by the Secretary of State shall be in writing.

(6) Any power to give a direction includes power to vary or revoke the direction by a subsequent direction.

Textual Amendments

- F1** S. 306(1)(1A) substituted for s. 306(1) (17.7.1997) by 1997 c. 28, s. 29(1), **Sch. 6 para. 18(2)**; S.I. 1997/1539, art. 2, **Sch.**
- F2** S. 306(2)(2A) substituted for s. 306(2) (23.3.1997) by 1997 c. 28, s. 29(1), **Sch. 6 para. 18(3)**; S.I. 1997/1082, art. 2, **Sch.**
- F3** Words in s. 306(2A)(c) inserted (14.4.2015) by Wreck Removal Convention Act 2011 (c. 8), **ss. 1(3), 2(2)**; S.I. 2015/133, art. 3
- F4** Words in s. 306(3) inserted (17.7.1997) by 1997 c. 28, s. 29(1), **Sch. 6 para. 18(4)(a)**; S.I. 1997/1539, art. 2, **Sch.**
- F5** Words in s. 306(3) inserted (17.7.1997) by 1997 c. 28, s. 29(1), **Sch. 6 para. 18(4)(b)**; S.I. 1997/1539, art. 2, **Sch.**
- F6** Words in s. 306(3) repealed (12.10.1998) by S.I. 1998/2241, **art. 3(1)(c)**
- F7** Words in s. 306(4)(a) inserted (23.3.1997) by 1997 c. 28, s. 29(1), **Sch. 6 para. 18(5)**; S.I. 1997/1082, art. 2, **Sch.**

Modifications etc. (not altering text)

- C1** S. 306(1)(2) applied (31.3.2023) by The Merchant Shipping (Watercraft) Order 2023 (S.I. 2023/35), arts. 1(1), **13**

[F⁸306A Power to make ambulatory references to international instruments

(1) This section applies where—

- (a) a person has power under this Act to make subordinate legislation, and
- (b) the person proposes to exercise that power to make subordinate legislation which refers to an international instrument.

(2) The power may be exercised so as to have the effect that the reference to the instrument is construed—

- (a) as a reference to the instrument as modified from time to time;
- (b) if the instrument is replaced by another instrument, as a reference to that other instrument.

(3) For the purposes of subsection (2)(a), an instrument is modified if—

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- (a) omissions, additions or other alterations to the text of the instrument take effect, or
 - (b) supplementary provision made under the instrument takes effect.
- (4) In this section, provision included in subordinate legislation by virtue of subsection (2) is referred to as ambulatory provision.
- (5) Subordinate legislation which makes ambulatory provision may make provision as to—
- (a) when a modification of an international instrument is to be treated as taking effect for the purposes of subsection (2)(a) (read with subsection (3));
 - (b) when an international instrument is to be treated as having been replaced by another instrument for the purposes of subsection (2)(b).
- (6) In this section—
- (a) “international instrument” means an international convention or treaty or an instrument made under such a convention or treaty except that “international instrument” does not include an EU instrument;
 - (b) “subordinate legislation” has the same meaning as in the Interpretation Act 1978.]

Textual Amendments

F8 S. 306A inserted (26.5.2015) by [Deregulation Act 2015 \(c. 20\)](#), **ss. 106**, 115(3)(m)

Modifications etc. (not altering text)

C2 S. 306A applied (31.3.2023) by [The Merchant Shipping \(Watercraft\) Order 2023 \(S.I. 2023/35\)](#), arts. 1(1), **13**

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Changes and effects yet to be applied to the whole Act associated Parts and Chapters:

Whole provisions yet to be inserted into this Act (including any effects on those provisions):

- s. 145(2)(a)(ia) inserted by [2003 c. 44 Sch. 36 para. 13\(2\)](#)
- s. 145(2)(a)(ia) words substituted by [2015 c. 2 Sch. 11 para. 16\(2\)](#) (This amendment not applied to legislation.gov.uk. The insertion of s. 145(2)(a)(ia) by 2003 c. 44, Sch. 36 para. 13 is still prospective.)
- s. 145(2A) inserted by [2003 c. 44 Sch. 36 para. 13\(3\)](#)
- s. 145(2A) words substituted by [2015 c. 2 Sch. 11 para. 16\(3\)](#) (This amendment not applied to legislation.gov.uk. The insertion of s. 145(2A) by 2003 c. 44, Sch. 36 para. 13 is still prospective.)