
STATUTORY INSTRUMENTS

2004 No. 2110

**The Merchant Shipping (Vessel Traffic Monitoring
and Reporting Requirements) Regulations 2004**

PART 5

MISCELLANEOUS PROVISIONS

Confidentiality of information

16.—(1) Subject to paragraph (4), no authority or member of staff of an authority shall disclose any information which has been obtained by, or furnished to, that authority or member of staff, as the case may be, under or for the purposes of the Directive and these Regulations unless the disclosure is made with lawful justification.

(2) For the purposes of paragraph (1), a disclosure of information is made with lawful justification only if, and to the extent that—

- (a) the disclosure is made for the purposes of, and is necessary for, the performance of any obligation under the Directive and these Regulations;
- (b) the disclosure is made with the consent of the person to whom, or to whose business, property or other assets, the information relates;
- (c) the disclosure is made for the purposes of any proceedings, whether criminal or civil;
- (d) having regard to the rights and freedoms or legitimate interests of any person, the disclosure is necessary in the public interest.

(3) In this regulation, “authority” means the MCA, Her Majesty’s Coastguard or a United Kingdom port authority.

(4) Paragraph (1) shall not apply in the case of information contained in an historical record.

(5) Where records created at different dates are for administrative purposes kept together in one file or other assembly, all the records in that file or other assembly are to be treated for the purposes of this regulation as having been created when the latest of those records was created.

(6) For the purposes of this regulation—

- (a) a record becomes an “historical record” at the end of the period of thirty years beginning with the year following that in which it was created; and
- (b) “year” means a calendar year.

Offences

17.—(1) Any contravention of regulation 5(2), 10(2), 10(3), 10(4), 10(5) or 10(8) shall be an offence by the owner, agent and master of the ship in question punishable—

- (a) on summary conviction by a fine not exceeding the statutory maximum; and
- (b) on conviction on indictment by a fine.

(2) Any person who, in purported compliance with regulation 5(2), 10(2), 10(3), 10(4), 10(5) or 10(8) makes a notification which he knows to be false in any material particular, shall be guilty of an offence and liable—

- (a) on summary conviction to a fine not exceeding the statutory maximum; and
- (b) on conviction on indictment to a fine.

(3) If the master of a ship fails to comply with regulation 5(5), 6(1), 6(2), 7(2), 10(10), 12(1), 12(2), 12(4), 12(5), 12(7), 13(6), 13(8), 13(9) or 14(2), that master shall be guilty of an offence and liable—

- (a) on summary conviction to a fine not exceeding the statutory maximum; and
- (b) on conviction on indictment to a fine.

(4) If a ship does not comply with regulation 8(2), 8(3) or 8(4), the owner of that ship shall be guilty of an offence and liable—

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

(5) If the master of a ship fails to comply with regulation 9, that master shall be guilty of an offence and liable—

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

(6) If a port authority fails to comply with regulation 5(6) or 10(9) that port authority shall be guilty of an offence and liable—

- (a) on summary conviction to a fine not exceeding the statutory maximum; and
- (b) on conviction on indictment to a fine.

(7) If the owner of a ship fails to comply with regulation 15(1), that owner shall be guilty of an offence and liable—

- (a) on summary conviction to a fine not exceeding the statutory maximum; and
- (b) on conviction on indictment to a fine.

(8) Any person who knowingly or recklessly discloses information in contravention of regulation 16(1) shall be guilty of an offence and liable—

- (a) on summary conviction to a fine not exceeding the statutory maximum; and
- (b) on conviction on indictment to a fine.

Defences

18. In any proceedings for an offence under these Regulations, other than an offence under regulation 17(2) or 17(8), it shall be a defence for a person charged under these Regulations to prove that he took all reasonable steps to avoid the commission of the offence.

Offences due to the fault of another person

19. Where an offence under these Regulations is committed, or would have been committed but for the operation of regulation 18, by any person due to the act or default of some other person, that other person shall be guilty of the offence, and a person may be charged with and convicted of the offence by virtue of this regulation whether or not proceedings are taken against the first mentioned person.

Offences by corporate bodies

20.—(1) Where a body corporate is guilty of an offence under these Regulations and that offence is proved to have been committed with the consent or connivance of, or to be attributable to any neglect on the part of—

- (a) any director, manager, secretary or other similar officer of the body corporate; or
- (b) a person who was purporting to act in any such capacity,

he as well as the body corporate shall be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

(2) Where the affairs of a body corporate are managed by its members, paragraph (1) shall apply in relation to the acts and defaults of a member in connection with his functions of management as if he were a director of the body corporate.

(3) Where an offence under these Regulations committed by a Scottish partnership is proved—

- (a) to have been committed with the consent or connivance of; or
- (b) to be attributable to any neglect on the part of,

a partner, he as well as the partnership shall be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

Detention of ships

21. In any case where a ship does not comply with the requirements of these Regulations, the ship shall be liable to be detained and section 284 of the 1995 Act⁽¹⁾ (enforcing detention of ship) shall have effect in relation to the ship as if for the words “this Act”, wherever they appear in that section, there were substituted the words “the Merchant Shipping (Vessel Traffic Monitoring and Reporting Requirements) Regulations 2004”.

Amendments

22.—(1) In Schedule 3A to the 1995 Act⁽²⁾, after sub-paragraph (d) of paragraph 1(2), there shall be inserted “(da) the owner of a hazardous substance in the ship,”.

(2) The Merchant Shipping (Reporting Requirements for Ships Carrying Dangerous or Polluting Goods) Regulations 1995⁽³⁾ shall be amended in accordance with the provisions of Schedule 1.

(3) In the Merchant Shipping (Prevention of Oil Pollution) Regulations 1996⁽⁴⁾, at the end of regulation 33(2)(i), there shall be added the words “and the Merchant Shipping (Vessel Traffic Monitoring and Reporting Requirements) Regulations 2004”.

(4) The Merchant Shipping (Dangerous Goods and Marine Pollutants) Regulations 1997⁽⁵⁾ shall be amended in accordance with the provisions of Schedule 2.

(5) The Merchant Shipping (Safety of Navigation) Regulations 2002⁽⁶⁾ shall be amended in accordance with the provisions of Schedule 3.

(1) Section 284 was amended by section 9 of, and paragraph 5 of Schedule 1 to, the Merchant Shipping and Maritime Security Act 1997 (c. 28).

(2) Schedule 3A was inserted by Schedule 1 to the Marine Safety Act 2003 c. 16.

(3) S.I.1995/2498, amended by S.I. 1999/2121 and S.I. 2001/1638.

(4) S.I. 1996/2154; relevant amending instrument is S.I.. 2004/303.

(5) S.I. 1997/2367, to which there are no amendments relevant to these Regulations.

(6) S.I. 2002/1473; relevant amending instrument is S.I. 2004/302. .