
STATUTORY INSTRUMENTS

2021 No. 1316

**The Merchant Shipping (Radiocommunications)
(Amendment) Regulations 2021**

PART 4

Control and enforcement

Offences and penalties

13.—(1) If a ship proceeds or attempts to proceed to sea or on any voyage, or arrives within United Kingdom waters, in breach of any of the requirements of these Regulations, the owner and the master are each guilty of an offence in respect of each case of non-compliance.

(2) A person to whom regulation 12 applies who fails to—

- (a) carry out the specified tests in regulation 12(3), or
- (b) inform the master if any radio equipment required by these Regulations is not in working order,

is guilty of an offence in respect of each case of non-compliance.

(3) An offence under paragraph (1) or (2) is punishable—

- (a) on summary conviction—
 - (i) in England and Wales by a fine; or
 - (ii) in Scotland or Northern Ireland by a fine not exceeding the statutory maximum; or
- (b) on conviction on indictment by imprisonment for a term not exceeding two years, or a fine, or both.

(4) It is a defence for a person charged with an offence under this regulation to prove that the person charged took all reasonable steps to avoid the commission of the offence.

Commencement Information

II Reg. 13 in force at 24.12.2021, see [reg. 1\(1\)](#)

Detention

14.—(1) For the purposes of this regulation, any reference to “the Act” is a reference to the Merchant Shipping Act 1995.

(2) Subject to paragraph (10), a ship which does not comply with a requirement in these Regulations or a provision of Chapter IV referred to in regulation 10 or 11 may be detained.

(3) Section 284 of the Act(1) applies where a ship is liable to be detained under this regulation as if—

- (a) references to detention of a ship under the Act were references to detention of the ship in question under this regulation; and
- (b) subsection (7) were omitted.

(4) Where a ship is liable to be detained under this regulation, the person detaining the ship must serve on the master a detention notice which—

- (a) states the grounds of the detention; and
- (b) requires the terms of the notice to be complied with until the ship is released by any person mentioned in section 284(1) of the Act.

(5) Subject to paragraph (6), section 96 (references of detention notices to arbitration)(2) and section 97 (compensation in connection with invalid detention of a ship) of the Act apply in relation to a detention notice issued pursuant to this regulation as they apply in relation to detention notices issued pursuant to section 95 (power to detain dangerously unsafe ship).

(6) For the purposes of paragraph (5)—

- (a) section 96 of the Act applies as if—
 - (i) subsection (3) were omitted;
 - (ii) the words “as a dangerously unsafe ship” in subsection (5) were omitted;
 - (iii) subsection (11) were omitted; and
- (b) sections 96 and 97 of the Act apply as if “the relevant inspector” means a person issuing the detention notice pursuant to this regulation.

(7) Subject to paragraph (8), where a non-United Kingdom ship is detained, the Secretary of State must immediately inform the ship’s flag administration in writing.

(8) If it is not possible to inform the ship’s flag administration in accordance with paragraph (7), the Secretary of State must inform the Consul of the State of the flag administration, or in the absence of a Consul, the nearest diplomatic representative of the State of the flag administration.

(9) For the purposes of paragraphs (7) and (8), “flag administration” in relation to a ship means the administration of the State whose flag the ship is entitled to fly.

(10) A ship must not be detained in a port where repair facilities are not readily available by reason of malfunction of the equipment for providing general radiocommunications referred to in regulation 4.1.8 of Chapter IV if the ship is capable of performing all other distress and safety functions as required by that regulation.

Commencement Information

12 Reg. 14 in force at 24.12.2021, see [reg. 1\(1\)](#)

Review of the Regulations

15.—(1) The Secretary of State must from time to time—

- (a) carry out a review of the regulatory provision contained in these Regulations; and
- (b) publish a report setting out the conclusions of the review.

(1) Section 284 was amended by Schedule 1 to the Merchant Shipping and Maritime Security Act 1997 (c. 28) and S.I. 2015/664.
 (2) Section 96(7) was amended by Part 1 of Schedule 10 to the Tribunals, Courts and Enforcement Act 2007 (c. 15) and by Schedule 11 to the Constitutional Reform Act 2005 (c. 4). Section 96(10) was repealed by Schedule 4 to the Arbitration Act 1996 (c. 23).

(2) The first report must be published before 24th December 2026.

(3) Subsequent reports must be published at intervals not exceeding 5 years.

(4) Section 30(3) of the Small Business, Enterprise and Employment Act 2015⁽³⁾ requires that a review carried out under this regulation must, so far as is reasonable, have regard to how the obligations under the Convention are implemented in other countries which are subject to the obligations.

(5) Section 30(4) of the Small Business, Enterprise and Employment Act 2015 requires that a report published under this regulation must, in particular—

- (a) set out the objectives intended to be achieved by the regulatory provision referred to in paragraph (1)(a);
- (b) assess the extent to which those objectives are achieved;
- (c) assess whether those objectives remain appropriate; and
- (d) if those objectives remain appropriate, assess the extent to which they could be achieved in another way which involves less onerous regulatory provision.

(6) In this regulation, “regulatory provision” has the same meaning as in sections 28 to 32 of the Small Business, Enterprise and Employment Act 2015 (see section 32 of that Act).

Commencement Information

I3 Reg. 15 in force at 24.12.2021, see [reg. 1\(1\)](#)

(3) [2015 c. 26](#). Section 30(3) was amended by the Enterprise Act 2016 ([c. 12](#)), section 19 and the European Union (Withdrawal) Act 2018 ([c. 16](#)), Schedule 8.

Changes to legislation:

There are currently no known outstanding effects for the The Merchant Shipping (Radiocommunications) (Amendment) Regulations 2021, PART 4.