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STATUTORY INSTRUMENTS

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**2022 No. 737**

**The Merchant Shipping (Control and Management of Ships' Ballast Water and Sediments) Regulations 2022**

**PART 7**

**Enforcement**

**Inspection of ships**

**38.**—(1) Insofar as sections 258(1) (powers to inspect ships and their equipment etc.) and 259 (powers of inspectors in relation to premises and ships) of the 1995 Act apply in relation to a ship to which these Regulations apply, for the purpose of checking compliance with these Regulations those sections have effect subject to the following modifications.

(2) The power to inspect a ship and its equipment, any part of the ship, any articles on board and any document carried in the ship, is limited to—

- (a) verifying that there is on board a valid IBWM Certificate in respect of the ship;
- (b) inspecting the ballast water record book; or
- (c) taking samples of the ship's ballast water,

except where paragraph (3) applies.

(3) This paragraph applies—

- (a) where the ship—
  - (i) does not carry a valid IBWM Certificate; or
  - (ii) is detected to have violated these Regulations or the Convention; or
- (b) if there are clear grounds for believing that—
  - (i) the condition of the ship or its equipment does not correspond substantially with the particulars of the IBWM Certificate; or
  - (ii) the master or the crew are not familiar with essential shipboard procedures relating to ballast water management or have not implemented such procedures.

(4) The power in those sections to go on board a ship may only be exercised if the ship is—

- (a) in a port in the United Kingdom;
- (b) at an offshore terminal in United Kingdom waters or controlled waters; or
- (c) a floating platform in United Kingdom waters or controlled waters, other than a floating platform which is in transit.

(5) Where the ship is inspected for the purposes of paragraph (3)(a)(ii) and is not a United Kingdom ship, the person exercising the powers of inspection must ensure that the report of the inspection is sent to—

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(1) Section 258 is amended by the Merchant Shipping and Maritime Security Act 1997 (c. 28), Schedule 1, paragraph 4, and Schedule 7, Part 1, and the Protection of Freedoms Act 2012 (c. 9), Schedule 2, Part 1 paragraph 2 and Schedule 10, Part 2.

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- (a) the appropriate maritime authorities of the ship's flag State or a diplomatic representative of that State; and
  - (b) any other party to the Convention who requested the inspection.
- (6) Where the ballast water record book is inspected under paragraph (2)(b) the person exercising the power of inspection may—
- (a) make a copy of an entry in that book; and
  - (b) require the master of the ship to certify that the copy is a true copy of the original.
- (7) Any copy certified in accordance with paragraph (6) is to be admissible in any judicial proceedings as evidence of the facts stated in it.
- (8) The inspection of a ballast water record book and the taking of a certified copy of an entry as described in paragraph (6) must be performed as expeditiously as possible without causing the ship to be unduly delayed.
- (9) The time required to analyse samples of a ship's ballast water taken pursuant to this regulation must not be used to unduly delay the operation, movement or departure of the ship.