
STATUTORY INSTRUMENTS

2023 No. 246

The Merchant Shipping (Cargo and Passenger Ship Construction and Miscellaneous Amendments) Regulations 2023

PART 6

Enforcement

Offences and penalties

17.—(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 in, or listed in, these Regulations applicable to that ship, other than a matter to which paragraph (2) applies, the owner and the master are each guilty of an offence in respect of each case of non-compliance.

(2) Any breach of these Regulations which comprises a contravention of the following requirements in Chapter II-1—

- (a) paragraph 6 of regulation 5-1;
- (b) paragraph 1 of regulation 20.1;
- (c) paragraph 10 or 11 of regulation 22;
- (d) paragraph 4, 5 or 9 of regulation 23,

is an offence by the master.

(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.

Detention

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

(2) Any ship which does not comply with the requirements of these Regulations, Chapter II-1 or Merchant Shipping Notice 1907(M) applicable to that ship may be detained.

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

(1) Section 284 was amended by Schedule 1 to the Merchant Shipping and Maritime Security Act 1997 (c. 28) and S.I. 2015/664.

- (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)⁽³⁾
- (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 ship other than a 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.

(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).

(3) Section 95 was amended by Schedule 1 to the Merchant Shipping and Maritime Security Act 1997 (c. 28).