



Merchant Shipping Act 1995

1995 CHAPTER 21

PART IV

SAFETY

Unsafe ships

96 References of detention notices to arbitration.

- (1) Any question as to whether any of the matters specified in relation to a ship in a detention notice in pursuance of section 95(3)(b) in connection with any opinion formed by the relevant inspector constituted a valid basis for that opinion shall, if the master or owner of the ship so requires by a notice given to the relevant inspector within 21 days from the service of the detention notice, be referred to a single arbitrator appointed by agreement between the parties for that question to be decided by him.
- (2) Where a notice is given by the master or owner of the ship in accordance with subsection (1) above, the giving of the notice shall not suspend the operation of the detention notice unless, on the application of the person requiring the reference, the arbitrator so directs.
- (3) The arbitrator shall have regard, in coming to his decision, to any other matters not specified in the detention notice which appear to him to be relevant to whether the ship was or was not a dangerously unsafe ship.
- (4) Where on a reference under this section the arbitrator decides as respects any matter to which the reference relates, that in all the circumstances the matter did not constitute a valid basis for the inspector's opinion he shall either cancel the detention notice or affirm it with such modifications as he may in the circumstances think fit; and in any other case the arbitrator shall affirm the notice in its original form.
- (5) The arbitrator shall include in his decision a finding whether there was or was not a valid basis for the detention of the ship as a dangerously unsafe ship.

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- (6) A person shall not be qualified for appointment as an arbitrator under this section unless he is—
- (a) a person holding a certificate of competency as a master mariner or as a marine engineer officer class 1, or a person holding a certificate equivalent to any such certificate;
 - (b) a naval architect;
 - (c) a person falling within subsection (7); or
 - (d) a person with special experience of shipping matters, of the fishing industry, or of activities carried on in ports.
- (7) For the purposes of subsection (6)(c) a person falls within this subsection if—
- ^{F1}(a) he satisfies the judicial-appointment eligibility condition on a 7-year basis;
 - (b) he is an advocate or solicitor in Scotland of at least ^{F2}7 years' standing; or
 - (c) he is a member of the bar of Northern Ireland or ^{F3}solicitor of the Court of Judicature of Northern Ireland] of at least ^{F4}7 years' standing.
- (8) In connection with his functions under this section an arbitrator shall have the powers conferred on an inspector by section 259.
- (9) In the application of this section to Scotland any reference to an arbitrator shall be construed as a reference to an arbiter and the reference in subsection (1) above to a single arbitrator appointed by agreement between the parties shall be construed as a reference to a single arbiter so appointed or, in default of agreement, appointed by the sheriff.
- ^{F5}(10)
- (11) In this section “relevant inspector” has the same meaning as in section 95.

Textual Amendments

- F1** S. 96(7)(a) substituted (21.7.2008) by [Tribunals, Courts and Enforcement Act 2007 \(c. 15\)](#), s. 148, [Sch. 10 para. 26\(2\)](#); S.I. 2008/1653, art. 2(d) (with arts. 3, 4)
- F2** Word in s. 96(7)(b) substituted (21.7.2008) by [Tribunals, Courts and Enforcement Act 2007 \(c. 15\)](#), s. 148, [Sch. 10 para. 26\(3\)](#); S.I. 2008/1653, art. 2(d) (with arts. 3, 4)
- F3** Words in Act substituted (1.10.2009) by [Constitutional Reform Act 2005 \(c. 4\)](#), s. 148(1), [Sch. 11 para. 5](#); S.I. 2009/1604, art. 2(d)
- F4** Word in s. 96(7)(c) substituted (21.7.2008) by [Tribunals, Courts and Enforcement Act 2007 \(c. 15\)](#), s. 148, [Sch. 10 para. 26\(3\)](#); S.I. 2008/1653, art. 2(d) (with arts. 3, 4)
- F5** S. 96(10) repealed (31.1.1997) by [1996 c. 23](#), s. 107(2), [Sch. 4](#); S.I. 1996/3146, [art. 3](#) (with art. 4, [Sch. 2](#))

Modifications etc. (not altering text)

- C1** S. 96 applied (with modifications) (1.1.1996) by S.I. 1995/3128, [reg. 10\(2\)](#)
 S. 96 applied (31.3.1998) by S.I. 1997/2962, [reg. 30](#)
 S. 96 applied (30.10.1998) by S.I. 1998/2411, [reg. 16](#)
 S. 96 applied (31.12.1998) by S.I. 1998/2857, [reg. 13](#)
 S. 96 applied (25.10.1999) by S.I. 1999/2205, [reg. 17](#)
 S. 96 applied (with modifications) (1.11.2001) by S.I. 2001/3209, [reg. 9\(8\)](#)
 S. 96 applied (with modifications) (15.2.2002) by S.I. 2001/3444, [reg. 13](#)
 S. 96 applied (with modifications) (23.11.2002) by S.I. 2002/2201, [reg. 12](#)
 S. 96 applied (with modifications) (1.9.2002) by S.I. 2002/2055, [reg. 16](#)

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- S. 96 applied (with modifications) (7.9.2002) by S.I. 2002/2125, **reg. 18(1)(2)**
- C2** S. 96 applied (with modifications) (15.7.2003) by The Merchant Shipping and Fishing Vessels (Port Waste Reception Facilities) Regulations 2003 (S.I. 2003/1809), regs. 1(1), **23** (with reg. 3)
- C3** S. 96 amendment to earlier affecting provision S.I. 1995/3128, reg. 10(2) (as substituted (22.7.2003) by The Merchant Shipping (Port State Control) (Amendment) Regulations 2003 (S.I. 2003/1636), art. 1, **reg. 11(3)**)
- C4** S. 96 applied (with modifications) (16.8.2004) by The Fishing Vessels (Working Time: Sea-fishermen) Regulations 2004 (S.I. 2004/1713), regs. 1, **17** (with reg. 3)
- C5** Ss. 96, 97 applied (with modifications) (24.11.2006) by The Merchant Shipping and Fishing Vessels (Provision and Use of Work Equipment) Regulations 2006 (S.I. 2006/2183), **reg. 41**
- C6** Ss. 96, 97 applied (with modifications) (24.11.2006) by The Merchant Shipping and Fishing Vessels (Lifting Operations and Lifting Equipment) Regulations 2006 (S.I. 2006/2184), regs. 1(1), **24**
- C7** S. 96 applied (with modifications) (1.1.2007) by The Merchant Shipping (Local Passenger Vessels) (Crew) Regulations 2006 (S.I. 2006/3224), regs. 1, **7(3)**
- C8** S. 96 applied (with modifications) (1.1.2007) by The Merchant Shipping (Inland Waterway and Limited Coastal Operations) (Boatmasters' Qualifications and Hours of Work) Regulations 2006 (S.I. 2006/3223), regs. 1(b), **26(3)**
- C9** S. 96 applied (with modifications) (24.11.2011) by The Merchant Shipping (Port State Control) Regulations 2011 (S.I. 2011/2601), regs. 1(2), **14(2)**
- C10** S. 96 applied (with modifications) (4.4.2015) by The Merchant Shipping (Boatmasters' Qualifications, Crew and Hours of Work) Regulations 2015 (S.I. 2015/410), regs. 1, **49(3)**
- C11** S. 96 applied (with modifications) (6.4.2015) by The Merchant Shipping (Survey and Certification) Regulations 2015 (S.I. 2015/508), regs. 1, **27(3)** (with reg. 5)
- C12** S. 96 applied (with modifications) (5.12.2016) by The Merchant Shipping (Marine Equipment) Regulations 2016 (S.I. 2016/1025), regs. 1, **27(4)**
- C13** S. 96 applied in part (9.3.2018) by The Merchant Shipping (International Load Line Convention) (Amendment) Regulations 2018 (S.I. 2018/155), regs. 1, **27(5)** (with regs. 4, 29)
- C14** S. 96 applied (with modifications) (6.4.2018) by The Merchant Shipping (Maritime Labour Convention) (Hours of Work) Regulations 2018 (S.I. 2018/58), regs. 1, **23(1)(2)** (with regs. 3, 4)
- C15** S. 96 applied (with modifications) (9.6.2020) by The Merchant Shipping (Life-Saving Appliances and Arrangements) Regulations 2020 (S.I. 2020/501), regs. 1, **21(5)(6)** (with reg. 4)
- C16** S. 96 applied (with modifications) (31.7.2020) by The Merchant Shipping (Safety of Navigation) Regulations 2020 (S.I. 2020/673), regs. 1(1), **12(5)(6)** (with reg. 3)
- C17** S. 96 applied (with modifications) (24.12.2021) by The Merchant Shipping (Radiocommunications) (Amendment) Regulations 2021 (S.I. 2021/1316), regs. 1(1), **14(5)(6)** (with reg. 4)
- C18** S. 96 applied (with modifications) (24.12.2021) by S.I. 1998/2070, **reg. 49(5)(6)** (as substituted by The Merchant Shipping (Radiocommunications) (Amendment) Regulations 2021 (S.I. 2021/1316), reg. 1(1), **Sch. 1 para. 14** (with reg. 4))
- C19** S. 96 applied (with modifications) (6.1.2022) by The Merchant Shipping (Polar Code) (Safety) Regulations 2021 (S.I. 2021/1401), regs. 1(1), **28(5)(6)** (with reg. 3)
- C20** S. 96 applied (with modifications) (14.5.2022) by The Merchant Shipping and Fishing Vessels (Entry into Enclosed Spaces) Regulations 2022 (S.I. 2022/96), regs. 1(b), **12(4)(5)** (with reg. 5)
- C21** Ss. 96, 97 applied (with modifications) (8.12.2022) by The Merchant Shipping (Nuclear Ships) Regulations 2022 (S.I. 2022/1169), regs. 1(1), **33(5)(6)** (with reg. 3)
- C22** Ss. 96, 97 applied (with modifications) (19.12.2022) by The Merchant Shipping (High Speed Craft) Regulations 2022 (S.I. 2022/1219), regs. 1(1), **17(5)(6)** (with reg. 4(2)-(4))
- C23** S. 96 applied (with modifications) (20.12.2022) by The Merchant Shipping (Additional Safety Measures for Bulk Carriers) Regulations 2022 (S.I. 2022/1218), regs. 1(1), **22(5)(6)**
- C24** Ss. 96, 97 applied (with modifications) (10.1.2023) by The Merchant Shipping (Standards of Training, Certification and Watchkeeping) Regulations 2022 (S.I. 2022/1342), regs. 1(1), **65(5)(6)**
- C25** S. 96 applied (with modifications) (29.3.2023) by The Merchant Shipping (Cargo and Passenger Ship Construction and Miscellaneous Amendments) Regulations 2023 (S.I. 2023/246), regs. 1(1), **18(5)(6)**

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- C26** S. 96 applied (31.3.2023) by The Merchant Shipping (Watercraft) Order 2023 (S.I. 2023/35), arts. 1(1), 7
- C27** Ss. 96, 97 applied (with modifications) (15.6.2023) by The Merchant Shipping (Fire Protection) Regulations 2023 (S.I. 2023/568), regs. 1(1), **23(5)(6)** (with reg. 5)
- C28** S. 96 applied (with modifications) (5.10.2023) by The Merchant Shipping (Inspections of Ro-Ro Passenger Ships and High-Speed Passenger Craft) Regulations 2023 (S.I. 2023/984), regs. 1(1), **8(13)(14)** (with reg. 3)
- C29** S. 96 applied (with modifications) (13.12.2023) by The Merchant Shipping (Small Workboats and Pilot Boats) Regulations 2023 (S.I. 2023/1216), regs. 1(1), **22(4)(5)** (with regs. 4, 6)
- C30** Ss. 96, 97 applied (with modifications) (2.4.2024) by The Merchant Shipping (Special Measures to Enhance Maritime Safety) Regulations 2024 (S.I. 2024/280), regs. 1(1), **11(5)(6)** (with reg. 4)
- C31** S. 96 applied (with modifications) (10.5.2024) by The Merchant Shipping (Anti-Fouling Systems) Regulations 2024 (S.I. 2024/509), regs. 1(1), **13(4)-(6)** (with reg. 4)
- C32** S. 96 applied (with modifications) (11.6.2024) by The Merchant Shipping (Carriage of Dangerous Goods and Harmful Substances) (Amendment) Regulations 2024 (S.I. 2024/636), regs. 1(1), **33(5)(6)** (with reg. 4)
- C33** S. 96 applied (with modifications) (11.6.2024) by The Merchant Shipping (Carriage of Cargoes) Regulations 2024 (S.I. 2024/637), regs. 1(1), **18(5)(6)** (with reg. 4)

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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.)