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DRAFT STATUTORY INSTRUMENTS

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**2023 No.**

**The Merchant Shipping (Fire Protection) Regulations 2023**

**PART 7**

**Enforcement**

**Offences and penalties**

**22.**—(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 applicable to that ship in, or listed in, these Regulations, other than a matter to which paragraph (3) applies, the owner and master are each guilty of an offence in respect of each case of non-compliance.

(2) An offence under paragraph (1) 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.

(3) Any contravention of—

(a) regulation 16.3.3.3 in Chapter II-2;

(b) paragraph 5.4(c) in Merchant Shipping Notice 1900 (M);

(c) paragraph 1.15 in Merchant Shipping Notice 1901 (M); or

(d) paragraph 3.8 in Part A of Merchant Shipping Notice 1902 (M),

(which relate to the oxygen content of the inert gas supply) is an offence by the master.

(4) An offence under paragraph (3) is punishable—

(a) in England and Wales by a fine; or

(b) in Scotland or Northern Ireland by a fine not exceeding the statutory maximum.

(5) It is a defence for the 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**

**23.**—(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, or listed in—

(a) these Regulations;

(b) regulation 1.2 in Part A of Chapter II-2 (applicable requirements to existing ships);

(c) regulation 1.6 in Part A of Chapter II-2 (application of requirements to tankers);

- (d) Parts B, C, D, E and G of Chapter II-2 (fire protection requirements);
  - (e) Merchant Shipping Notice 1900 (M);
  - (f) Merchant Shipping Notice 1901 (M);
  - (g) Merchant Shipping Notice 1902 (M); or
  - (h) the relevant Merchant Shipping Notices,
- applicable to that ship, may be detained in the United Kingdom.
- (3) Section 284 of the Act<sup>(1)</sup> (enforcing detention of ship) 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 for 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)<sup>(2)</sup> 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)<sup>(3)</sup>.
- (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.

## Review of the Regulations

- 24.—(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.

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(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).

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

(2) The first report must be published before the end of the period of five years beginning with the date on which these Regulations come into force.

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

(4) Section 30(3) of the Small Business, Enterprise and Employment Act 2015<sup>(4)</sup> 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).

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(4) 2015 c. 26. Section 30(3) was amended by section 19 of the Enterprise Act 2016 (c. 12) and Schedule 8 to the European Union (Withdrawal) Act 2018 (c. 16).