



# Merchant Shipping Act 1995

## 1995 CHAPTER 21

### PART IV

#### SAFETY

##### *Safety and Health on Ships*

#### **85 Safety and health on ships.**

- (1) The Secretary of State may by regulations (in this Act referred to as “safety regulations”) make such provision as he considers appropriate for all or any of the following purposes—
- (a) for securing the safety of United Kingdom ships and persons on them, and for protecting the health of persons on United Kingdom ships;
  - <sup>F1</sup>(b) for securing the safety of other ships and persons on them while they are within United Kingdom waters and for protecting the health of persons on ships other than United Kingdom ships while they are within United Kingdom waters.]
- <sup>F2</sup>[<sup>F2</sup>(1A) Except as provided by subsection (1B) below, safety regulations shall not apply in relation to—
- (a) a qualifying foreign ship while it is exercising—
    - (i) the right of innocent passage; or
    - (ii) the right of transit passage through straits used for international navigation; or
  - (b) persons on such a ship while it is exercising any such right.
- <sup>F2</sup>(1B) Safety regulations shall apply in relation to a qualifying foreign ship, and persons on such a ship, even though the ship is exercising a right mentioned in subsection (1A) (a) above, to the extent that the safety regulations give effect to any provisions of an international agreement ratified by the United Kingdom so far as it relates to the safety of ships or persons on them or to the protection of the health of persons on ships.]
- (2) In subsection (1) above “United Kingdom ship” means a ship which—

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- (a) is registered in the United Kingdom; or
  - (b) is not registered under the law of any country but is wholly owned by persons each of whom is—
    - (i) a British citizen, a British Dependent Territories citizen or a British Overseas citizen, or
    - (ii) a body corporate which is established under the law of a part of the United Kingdom and has its principal place of business in the United Kingdom.
- (3) Regulations in pursuance of subsection (1)(a) or (b) above may make provision with respect to any of the following matters,<sup>F3</sup> . . . , that is to say—
- (a) the design, construction, maintenance, repair, alteration, inspection, surveying and marking of ships and their machinery and equipment;
  - (b) the packaging, marking, loading, placing, moving, inspection, testing and measuring of cargo and anything on a ship which is not cargo, machinery or equipment;
  - (c) the carrying out of any operation involving a ship;
  - (d) the use of the machinery and equipment of a ship and of anything on a ship which is not cargo, machinery or equipment;
  - (e) the manning of ships, including the employment on ships of persons qualified to attend to the health and safety of persons on the ships;
  - (f) the arrangements for ensuring communication between persons in different parts of a ship and between persons in the ship and other persons;
  - (g) the access to, presence in and egress from a ship, and different parts of it, of persons of any description;
  - (h) the ventilation, temperature and lighting of different parts of a ship;
  - (i) the steps to be taken to prevent or control noise, vibration and radiation in and from a ship and the emission in or from a ship of smoke, gas and dust;
  - (j) the steps to be taken to prevent, detect and deal with outbreaks of fire on a ship;
  - (k) the steps to be taken to prevent any collision involving a ship and in consequence of any collision involving a ship;
  - (l) the steps to be taken, in a case where a ship is in distress or stranded or wrecked, for the purpose of saving the ship and its machinery, equipment and cargo and the lives of persons on or from the ship, including the steps to be taken by other persons for giving assistance in such a case;
  - (m) the removal, by jettisoning or otherwise, of its equipment and of other things from a ship for the purpose of avoiding, removing or reducing danger to persons or property;
  - (n) the steps to be taken, in a case where danger of any kind occurs or is suspected on a ship, for removing or reducing the danger and for warning persons who are not on the ship of the danger or suspected danger;
  - (o) the making of records and the keeping of documents relating to ships and the keeping and use on a ship of information to facilitate the navigation of the ship;
  - (p) the keeping of registers and the issue of certificates in cases for which registration or a certificate is required by virtue of the regulations; and
  - (q) the furnishing of information;

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but the mention of specific matters in this subsection shall not be construed as restricting the generality of the power conferred by [<sup>F4</sup>paragraph (a) or (b)] of subsection (1) above.

- (4) The power to make regulations conferred by [<sup>F5</sup>subsection (1)]above shall extend also to the making of regulations for the prevention of collisions between seaplanes on the surface of water and between ships and seaplanes and subsection (3)(k) above and (5) to (7) below and section 86(1) shall have effect accordingly.
- (5) Safety regulations—
- (a) may make provision in terms of approvals given by the Secretary of State or another person and in terms of any document which the Secretary of State or another person considers relevant from time to time;
  - (b) may provide for the cancellation of an approval given in pursuance of the regulations and for the alteration of the terms of such an approval; and
  - (c) must provide for any approval in pursuance of the regulations to be given in writing and to specify the date on which it takes effect and the conditions (if any) on which it is given.
- (6) Without prejudice to section 86(1)(b), safety regulations may provide—
- (a) for the granting by the Secretary of State or another person, on such terms (if any) as the Secretary of State or other person may specify, of exemptions from specified provisions of the regulations for classes of cases or individual cases; and
  - (b) for the alteration or cancellation of exemptions granted in pursuance of the regulations.
- (7) Safety regulations may provide—
- (a) that in such cases as are prescribed by the regulations a ship shall be liable to be detained and that section 284 shall have effect, with such modifications (if any) as are prescribed by the regulations, in relation to the ship;
  - (b) that a contravention of the regulations shall be an offence punishable on summary conviction by a fine not exceeding the statutory maximum and on conviction on indictment by imprisonment for a term not exceeding two years and a fine;
  - (c) that any such contravention shall be an offence punishable only on summary conviction by a maximum fine of an amount not exceeding level 5 on the standard scale, or such less amount as is prescribed by the regulations;
  - (d) that, in such cases as are prescribed by the regulations, such persons as are so prescribed shall each be guilty of an offence created by virtue of paragraph (b) or (c) above;
  - (e) that, notwithstanding anything in paragraph (b) or (c) above, a person convicted summarily of an offence under the regulations of a kind which is stated by the regulations to correspond to an offence which is triable either summarily or on indictment under an enactment specified in the regulations which authorises or authorised a fine on summary conviction of a maximum amount exceeding the statutory maximum shall be liable to a fine not exceeding that maximum amount.

[<sup>F6</sup>(8) Safety regulations which make provision in respect of the prohibition of smoking on any ship (“the smoking provisions”) may include provision—

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- (a) for the appointment by the Secretary of State of persons to enforce the smoking provisions (whether in respect of ships generally or for any particular case or purpose), and for the removal of any person so appointed,
- (b) for such persons (if they are not surveyors of ships appointed under section 256) to have the powers of such surveyors for the purposes of their enforcement functions,
- (c) for any such persons to have, for the purposes of their enforcement functions, powers corresponding to those which authorised officers have under paragraphs 2(b) to (e), 3 and 4, as read with paragraphs 5 and 9, of Schedule 2 to the Health Act 2006 (which confers powers of entry, etc., on authorised officers of enforcement authorities in relation to the enforcement of the provisions of that Act in relation to smoking),
- (d) in relation to an offence of smoking in a place where smoking is prohibited under the smoking provisions, for purposes corresponding to those of section 9 of and Schedule 1 to the Health Act 2006 (which provide for the giving by authorised officers of penalty notices in respect of such an offence).

In this subsection, “smoking” has the same meaning as in Chapter 1 of Part 1 of the Health Act 2006.]

#### Textual Amendments

- F1** S. 85(1)(b) substituted (19.3.1997) for s. 85(1)(b)(c) and the words following para. (c) by 1997 c. 28, ss. 8(2), 31(4)
- F2** S. 85(1A)(1B) inserted (19.3.1997) by 1997 c. 28, ss. 8(3), 31(4)
- F3** Words in s. 85(3) omitted (19.3.1997) by virtue of 1997 c. 28, ss. 8(4)(a), 31(4) and repealed (23.3.1997) by 1997 c. 28, s. 29(2), Sch. 7 Pt. I; S.I. 1997/1082, art. 2, Sch. Appendix
- F4** Words in s. 85(3) substituted (19.3.1997) by 1997 c. 28, ss. 8(4)(b), 31(4)
- F5** Words in s. 85(4) substituted (19.3.1997) by 1997 c. 28, s. 8(5)
- F6** S. 85(8) added (19.7.2006 for specified purposes, 2.4.2007 for W. in so far as not already in force, 1.7.2007 for E.S.N.I. in so far as not already in force) by Health Act 2006 (c. 28), ss. 5(4), 83(1)(e)(4) (a) (with s. 12(3)(4)); S.I. 2007/204, art. 2(a); S.I. 2007/1375, art. 2(a)

## 86 Provisions supplementary to section 85: general.

- (1) Safety regulations may—
- (a) make different provision for different circumstances and, in particular, make provision for an individual case;
  - (b) be made so as to apply only in such circumstances as are prescribed by the regulations;
  - (c) be made so as to extend outside the United Kingdom;
  - (d) contain such incidental, supplemental and transitional provisions as the Secretary of State considers appropriate;
  - (e) make provision for compensation to be paid, where a signal is used or displayed otherwise than in accordance with the regulations, for any expense or loss caused in consequence of the signal’s being taken for a signal of distress;

and any compensation falling to be paid by virtue of regulations under paragraph (e) above may, without prejudice to any other remedy, be recovered in the same manner as salvage.

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- (2) The Secretary of State may by regulations—
- (a) make such repeals or other modifications of provisions of the Merchant Shipping Acts 1894 to 1977 re-enacted in this Act, and of any instruments made under those Acts as he considers appropriate in consequence or in anticipation of the making of safety regulations;
  - (b) make such repeals or other modifications of provisions of any enactment passed and any instrument made before 4th April 1979 as he considers appropriate in connection with any modification made or to be made in pursuance of paragraph (a);
  - (c) provide for anything done under a provision repealed or otherwise modified by virtue of either of the preceding paragraphs to have effect as if done under safety regulations and make such other transitional provision and such incidental and supplemental provision as he considers appropriate in connection with any modification made by virtue of either of those paragraphs.
- (3) Nothing in section 85(3) to (6) or subsection (1) above shall be construed as prejudicing the generality of section 85(1).
- (4) Where the Secretary of State proposes to make safety regulations or he or another person proposes to give an approval in pursuance of safety regulations it shall be the duty of the Secretary of State or other person, before he gives effect to the proposal, to consult such persons in the United Kingdom (if any) as he considers will be affected by the proposal.

<sup>F7</sup>(5) .....

<sup>F7</sup>(6) .....

**Textual Amendments**

**F7** S. 86(5)(6) repealed (23.3.1997) by 1997 c. 28, s. 29(2), **Sch. 7 Pt. I**; S.I. 1997/1082, art. 2, **Sch.**  
Appendix

**87 Provisions supplementary to section 85: dangerous goods.**

- (1) Where any dangerous goods have been sent or carried, or attempted to be sent or carried, on board any ship, whether or not a United Kingdom ship—
- (a) without being marked as required by safety regulations,
  - (b) without such notice having been given as is required by safety regulations,
  - (c) under a false description, or
  - (d) with a false description of their sender or carrier,
- any court having Admiralty jurisdiction may declare the goods, and any package or receptacle in which they are contained, to be forfeited.
- (2) On a declaration of forfeiture being made, the goods shall be forfeited and they shall be disposed of as the court directs.
- (3) The powers conferred on the court by subsections (1) and (2) above are exercisable notwithstanding that the owner of the goods—
- (a) has not committed any offence under safety regulations relating to dangerous goods;

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- (b) is not before the court; and
  - (c) has no notice of the proceedings;
- and notwithstanding that there is no evidence to show to whom the goods belong.
- (4) Nevertheless, the court may, in their discretion, require such notice as they may direct to be given to the owner or shipper of the goods before they are forfeited.
- (5) In this section “dangerous goods” means goods designated as dangerous goods by safety regulations.

**88 Safety of submersible and supporting apparatus.**

- (1) This section applies to any submersible or supporting apparatus—
- (a) operated within United Kingdom waters, or
  - (b) launched or operated from, or comprising, a United Kingdom ship.
- (2) The Secretary of State may make regulations —
- (a) for the safety of submersible and supporting apparatus;
  - (b) for the prevention of accidents in or near submersible or supporting apparatus;
  - (c) for the safety, health and welfare of persons on or in submersible and supporting apparatus;
  - (d) for prohibiting or otherwise restricting the operation of any submersible apparatus except in accordance with the conditions of a licence granted under the regulations; and
  - (e) for the registration of submersible apparatus.
- (3) Schedule 2 shall have effect for supplementing the provisions of this section.
- (4) In this section—
- “apparatus” includes any vessel, vehicle or hovercraft, any structure, any diving plant or equipment and any other form of equipment;
  - “specified” means specified in regulations made by the Secretary of State for the purposes of this section;
  - “submersible apparatus” means any apparatus used, or designed for use, in supporting human life on or under the bed of any waters or elsewhere under the surface of any waters; and
  - “supporting apparatus” means any apparatus used, or designed for use, in connection with the operation of any submersible apparatus.

*Special provisions*

*Report of dangers to navigation.*

**F8**89 .....

<p><b>Textual Amendments</b></p> <p><b>F8</b> S. 89 repealed (12.10.1998) by <a href="#">S.I. 1998/2241</a>, <a href="#">reg. 3(1)(a)</a></p>
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**F9**90 .....

**Textual Amendments**

**F9** S. 90 repealed (1.12.1998) by **S.I. 1998/2647, reg. 1(2)(a)**

**91** (1) <sup>F10</sup> .....

(2) <sup>F10</sup> .....

(3) <sup>F10</sup> .....

(4) <sup>F10</sup> .....

(5) Every person in charge of a controlled station for wireless telegraphy shall, on receiving the signal prescribed [<sup>F11</sup>under safety regulations relating to dangers to navigation, which indicates that a message is about to be sent under those regulations], refrain from sending messages for a time sufficient to allow other stations to receive the message, and, if so required by the Secretary of State, shall transmit the message in such manner as may be required by the Secretary of State.

(6) Compliance with subsection (5) above shall be deemed to be a condition of every wireless telegraphy licence.

(7) In this section—

“controlled station for wireless telegraphy” means such a station controlled by the Secretary of State [<sup>F12</sup>or by the Office of Communications] ; and “controlled” includes controlled by means of a licence granted [<sup>F13</sup>by the Office of Communications] ;

<sup>F14</sup>  
...

[<sup>F15</sup>“wireless telegraphy licence” has the same meaning as in the Wireless Telegraphy Act 2006, and “station for wireless telegraphy” has the same meaning as “wireless telegraphy station” in that Act.]

<sup>F16</sup>  
...

**Textual Amendments**

**F10** S. 91(1)-(4) repealed (1.7.2002) by **S.I. 2002/1473, reg. 3(1), Sch. 1 para. 1(1)**

**F11** Words in s. 91(5) substituted (1.7.2002) by **S.I. 2002/1473, reg. 3(2), Sch. 2 para. 1**

**F12** Words in s. 91(7) inserted (29.12.2003) by **Communications Act 2003 (c. 21), s. 411(2), Sch. 17 para. 132(a)** (with **Sch. 18**); **S.I. 2003/3142, art. 3(1), Sch. 1** (with art. 11)

**F13** Words in s. 91(7) substituted (29.12.2003) by **Communications Act 2003 (c. 21), s. 411(2), Sch. 17 para. 132(b)** (with **Sch. 18**); **S.I. 2003/3142, art. 3(1), Sch. 1** (with art. 11)

**F14** Definition of “tropical storm” in s. 91(7) omitted (1.7.2002) by virtue of **S.I. 2002/1473, reg. 3(1), Sch. 1 para. 1(2)**

**F15** Words in s. 91(7) substituted (8.2.2007) by **Wireless Telegraphy Act 2006 (c. 36), s. 126(2), Sch. 7 para. 15**

**F16** Words in s. 91(7) omitted (1.7.2002) by virtue of **S.I. 2002/1473, reg. 3(1), Sch. 1 para. 1(2)**

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Assistance at sea

92 Duty of ship to assist the other in case of collision.

- (1) In every case of collision between two ships, it shall be the duty of the master of each ship, if and so far as he can do so without danger to his own ship, crew and passengers (if any)—
  - (a) to render to the other ship, its master, crew and passengers (if any) such assistance as may be practicable, and may be necessary to save them from any danger caused by the collision, and to stay by the other ship until he has ascertained that it has no need of further assistance; and
  - (b) to give to the master of the other ship the name of his own ship and also the names of the ports from which it comes and to which it is bound.
- (2) The duties imposed on the master of a ship by subsection (1) above apply to the masters of United Kingdom ships and to the masters of foreign ships when in United Kingdom waters.
- (3) The failure of the master of a ship to comply with the provisions of this section shall not raise any presumption of law that the collision was caused by his wrongful act, neglect, or default.
- (4) If the master fails without reasonable excuse to comply with this section, he shall—
  - (a) in the case of a failure to comply with subsection (1)(a) above, be liable—
    - (i) on summary conviction, to [<sup>F17</sup>a fine not exceeding £50,000][<sup>F17</sup>a fine] or imprisonment for a term not exceeding six months or both;
    - (ii) on conviction on indictment, to a fine or imprisonment for a term not exceeding two years or both; and
  - (b) in the case of a failure to comply with subsection (1)(b) above, be liable—
    - (i) on summary conviction, to a fine not exceeding the statutory maximum;
    - (ii) on conviction on indictment, to a fine;
 and in either case if he is a certified officer, an inquiry into his conduct may be held, and his certificate cancelled or suspended.

**Textual Amendments**

**F17** Words in s. 92(4)(a)(i) substituted (E.W.) (12.3.2015) by [The Legal Aid, Sentencing and Punishment of Offenders Act 2012 \(Fines on Summary Conviction\) Regulations 2015 \(S.I. 2015/664\)](#), reg. 1(1), [Sch. 4 para. 27\(4\)](#) (with reg. 5(1))

93 Duty to assist [<sup>F18</sup>aircraft] in distress.

- (1) The master of a ship, on receiving at sea a signal of distress [<sup>F19</sup>from an aircraft] or information from any source that [<sup>F20</sup>an] aircraft is in distress, shall proceed with all speed to the assistance of the persons in distress (informing them if possible that he is doing so) unless he is unable, or in the special circumstances of the case considers it unreasonable or unnecessary, to do so, or unless he is released from this duty under subsection (4) or (5) below.

<sup>F21</sup>(2) .....



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(3) The duties imposed on the master of a ship by [F22 subsection (1)]above apply to the masters of United Kingdom ships and to the masters of foreign ships when in United Kingdom waters.

F23(4) .....

(5) A master shall be released from the duty imposed by subsection (1) above F24 . . .if he is informed by the persons in distress, or by the master of any ship that has reached the persons in distress, that assistance is no longer required.

(6) If a master fails to comply with the preceding provisions of this section he shall be liable—

- (a) on summary conviction, to imprisonment for a term not exceeding six months or to a fine not exceeding the statutory maximum, or both;
- (b) on conviction on indictment, to imprisonment for a term not exceeding two years or to a fine, or both.

(7) Compliance by the master of a ship with the provisions of this section shall not affect his right, or the right of any other person, to salvage.

#### Textual Amendments

**F18** Words in sidenote to s. 93 substituted (10.8.1998) by S.I. 1998/1691, reg. 2(7)

**F19** Words in s. 93(1) added (10.8.1998) by S.I. 1998/1691, reg. 2(2)(a)

**F20** Words in s. 93(1) substituted (10.8.1998) by S.I. 1998/1691, reg. 2(2)(b)

**F21** S. 93(2) omitted (10.8.1998) by virtue of S.I. 1998/1691, reg. 2(3)

**F22** Words in s. 93(3) substituted (10.8.1998) by S.I. 1998/1691, reg. 2(4)

**F23** S. 93(4) omitted (10.8.1998) by virtue of S.I. 1998/1691, reg. 2(5)

**F24** Words in s. 93(5) omitted (10.8.1998) by virtue of S.I. 1998/1691, reg. 2(6)

### *Unsafe ships*

#### 94 Meaning of “dangerously unsafe ship”.

(1) For the purposes of sections 95, 96, 97 and 98 a ship [F25 in port] is “dangerously unsafe” if, having regard to the nature of the service for which it is intended, the ship is, by reason of the matters mentioned in subsection (2) below, unfit to go to sea without serious danger to human life.

F26[(1A) For the purposes of those sections a ship at sea is “dangerously unsafe” if, having regard to the nature of the service for which it is being used or is intended, the ship is, by reason of the matters mentioned in subsection (2) below, either—

- (a) unfit to remain at sea without serious danger to human life, or
- (b) unfit to go on a voyage without serious danger to human life.]

(2) Those matters are—

- (a) the condition, or the unsuitability for its purpose, of—
  - (i) the ship or its machinery or equipment, or
  - (ii) any part of the ship or its machinery or equipment;
- (b) undermanning;
- (c) overloading or unsafe or improper loading;

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- (d) any other matter relevant to the safety of the ship;  
and are referred to in those sections, in relation to any ship, as “the matters relevant to its safety”.
- (3) Any reference in those sections to “going to sea” shall, in a case where the service for which the ship is intended consists of going on voyages or excursions that do not involve going to sea, be construed as a reference to going on such a voyage or excursion.

#### Textual Amendments

- F25** Words in s. 94(1) inserted (23.3.1997) by 1997 c. 28, s. 9, **Sch. 1 para. 1(2)**; S.I. 1997/1082, art. 2, **Sch.**
- F26** S. 94(1A) inserted (23.3.1997) by 1997 c. 28, s. 9, **Sch. 1 para. 1(3)**; S.I. 1997/1082, art. 2, **Sch.**

### 95 Power to detain dangerously unsafe ship.

- <sup>F27</sup>[(1) Where a ship which is—
- (a) in a port in the United Kingdom, or
  - (b) at sea in United Kingdom waters,
- appears to a relevant inspector to be a dangerously unsafe ship, the ship may be detained.]
- (2) [<sup>F28</sup>Subject to subsection (2A) below]the power of detention conferred by subsection (1) above is exercisable in relation to foreign ships as well as United Kingdom ships.
- <sup>F28</sup>[(2A) The power of detention conferred by subsection (1)(b) is not exercisable in relation to a qualifying foreign ship while the ship is exercising—
- (a) the right of innocent passage, or
  - (b) the right of transit passage through straits used for international navigation.]
- (3) The officer detaining the ship shall serve on the master of the ship a detention notice which shall—
- (a) state that the relevant inspector is of the opinion that the ship is a dangerously unsafe ship;
  - (b) specify the matters which, in the relevant inspector’s opinion, make the ship a dangerously unsafe ship; and
  - (c) [<sup>F29</sup>require the ship to comply with the terms of the notice] until it is released by a competent authority.
- (4) In the case of a ship which is not a British ship the officer detaining the ship shall cause a copy of the detention notice to be sent as soon as practicable to the nearest consular officer for the country to which the ship belongs.
- (5) In this section—
- “competent authority” means any officer mentioned in section 284(1); and
- “relevant inspector” means any person mentioned in paragraph (a), (b) or (c) of section 258(1).

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### Textual Amendments

- F27** S. 95(1) substituted (23.3.1997) by 1997 c. 28, s. 9, **Sch. 1 para. 2(2)**; S.I. 1997/1082, art. 2, **Sch.**
- F28** S. 95(2A) and words in s. 95(2) inserted (23.3.1997) by 1997 c. 28, s. 9, **Sch. 1 para. 2(3)**; S.I. 1997/1082, art. 2, **Sch.**
- F29** Words in s. 95(3)(c) substituted (23.3.1997) by 1997 c. 28, s. 9, **Sch. 1 para. 2(4)**; S.I. 1997/1082, art. 2, **Sch.**

## 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.
- (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—
  - <sup>F30</sup>(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 <sup>F31</sup>7 years' standing; or
  - (c) he is a member of the bar of Northern Ireland or <sup>F32</sup>solicitor of the Court of Judicature of Northern Ireland] of at least <sup>F33</sup>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.

*Status: Point in time view as at 12/03/2015.*

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- (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.

<sup>F34</sup>(10) . . . . .

- (11) In this section “relevant inspector” has the same meaning as in section 95.

#### Textual Amendments

- F30** 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)
- F31** 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)
- F32** 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)
- F33** 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)
- F34** 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](#)  
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\(2\)](#)

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## 97 Compensation in connection with invalid detention of ship.

- (1) If on a reference under section 96 relating to a detention notice in relation to a ship—
  - (a) the arbitrator decides that any matter did not constitute a valid basis for the relevant inspector’s opinion, and
  - (b) it appears to him that there were no reasonable grounds for the inspector to form that opinion,the arbitrator may award the owner of the ship such compensation in respect of any loss suffered by him in consequence of the detention of the ship as the arbitrator thinks fit.
- (2) Any compensation awarded under this section shall be payable by the Secretary of State.
- (3) In the application of this section to Scotland any reference to an arbitrator shall be construed as a reference to an arbiter.
- (4) In this section “relevant inspector” has the same meaning as in section 95.

### Modifications etc. (not altering text)

- 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**
- C10** S. 97 applied (31.3.1998) by [S.I. 1997/2962](#), **reg. 30**  
S. 97 applied (30.10.1998) by [S.I. 1998/2411](#), **reg. 16**  
S. 97 applied (31.12.1998) by [S.I. 1998/2857](#), **reg. 13**  
S. 97 applied (25.10.1999) by [S.I. 1999/2205](#), **reg. 17**  
S. 97 applied (with modifications) (1.11.2001) by [S.I. 2001/3209](#), **reg. 9(8)**  
S. 97 applied (with modifications) (15.2.2002) by [S.I. 2001/3444](#), **reg. 13**  
S. 97 applied (with modifications) (23.11.2002) by [S.I. 2002/2201](#), **reg. 12**  
S. 97 applied (with modifications) (1.9.2002) by [S.I. 2002/2055](#), **reg. 16**
- C11** S. 97 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)
- C12** S. 97 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)
- C13** S. 97 applied (1.1.2007) by [The Merchant Shipping \(Local Passenger Vessels\) \(Crew\) Regulations 2006 \(S.I. 2006/3224\)](#), regs. 1, **7(3)**
- C14** S. 97 applied (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)**
- C15** S. 97 applied (with modifications) (24.11.2011) by [The Merchant Shipping \(Port State Control\) Regulations 2011 \(S.I. 2011/2601\)](#), regs. 1(2), **14(3)**
- C16** S. 97 applied (with modifications) (7.9.2002) by [S.I. 2002/2125](#), **reg. 18(1)(2)** (as amended (17.3.2014) by [The Merchant Shipping \(Maritime Labour Convention\) \(Hours of Work\) \(Amendment\) Regulations 2014 \(S.I. 2014/308\)](#), regs. 1(2), **2(20)(b)**)
- C17** S. 97(1) applied (with modifications) (1.1.1996) by [S.I. 1995/3128](#), **reg. 10(3)**

## 98 Owner and master liable in respect of dangerously unsafe ship.

- (1) If a ship which—
  - (a) is in a port in the United Kingdom, or

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- (b) is a United Kingdom ship and is in any other port, is dangerously unsafe, then, subject to subsections (4) and (5) below, the master and the owner of the ship shall each be guilty of an offence.
- (2) Where, at the time when a ship is dangerously unsafe, any responsibilities of the owner with respect to the matters relevant to its safety have been assumed (whether wholly or in part) by any person or persons other than the owner, and have been so assumed by that person or (as the case may be) by each of those persons either—
- (a) directly, under the terms of a charter-party or management agreement made with the owner, or
  - (b) indirectly, under the terms of a series of charter-parties or management agreements,
- the reference to the owner in subsection (1) above shall be construed as a reference to that other person or (as the case may be) to each of those other persons.
- (3) A person guilty of an offence under this section shall be liable—
- (a) on summary conviction, to [<sup>F35</sup>a fine not exceeding £50,000][<sup>F35</sup>a fine];
  - (b) on conviction on indictment, to imprisonment for a term not exceeding two years or a fine, or both.
- (4) It shall be a defence in proceedings for an offence under this section to prove that at the time of the alleged offence—
- (a) arrangements had been made which were appropriate to ensure that before the ship went to sea it was made fit to do so without serious danger to human life by reason of the matters relevant to its safety which are specified in the charge (or, in Scotland, which are libelled in the complaint, petition or indictment); or
  - (b) it was reasonable for such arrangements not to have been made.
- (5) It shall also be a defence in proceedings for an offence under this section to prove—
- (a) that, under the terms of one or more charter-parties or management agreements entered into by the accused, the relevant responsibilities, namely—
    - (i) where the accused is the owner, his responsibilities with respect to the matters relevant to the ship's safety, or
    - (ii) where the accused is liable to proceedings under this section by virtue of subsection (2) above, so much of those responsibilities as had been assumed by him as mentioned in that subsection,
 had at the time of the alleged offence been wholly assumed by some other person or persons party thereto; and
  - (b) that in all the circumstances of the case the accused had taken such steps as it was reasonable for him to take, and exercised such diligence as it was reasonable for him to exercise, to secure the proper discharge of the relevant responsibilities during the period during which they had been assumed by some other person or persons as mentioned in paragraph (a) above;
- and, in determining whether the accused had done so, regard shall be had in particular to the matters mentioned in subsection (6) below.
- (6) Those matters are—
- (a) whether prior to the time of the alleged offence the accused was, or in all the circumstances ought reasonably to have been, aware of any deficiency in the discharge of the relevant responsibilities; and

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- (b) the extent to which the accused was or was not able, under the terms of any such charter-party or management agreement as is mentioned in subsection (5) (a) above—
  - (i) to terminate it, or
  - (ii) to intervene in the management of the ship,in the event of any such deficiency, and whether it was reasonable for the accused to place himself in that position.
- (7) No proceedings for an offence under this section shall be instituted—
  - (a) in England and Wales, except by or with the consent of the Secretary of State or the Director of Public Prosecutions;
  - (b) in Northern Ireland, except by or with the consent of the Secretary of State or the Director of Public Prosecutions for Northern Ireland.
- (8) In this section—
  - “management agreement”, in relation to a ship, means any agreement (other than a charter-party or a contract of employment) under which the ship is managed, either wholly or in part, by a person other than the owner (whether on behalf of the owner or on behalf of some other person); and
  - “relevant responsibilities” shall be construed in accordance with subsection (5) above.
- (9) References in this section to responsibilities being assumed by a person under the terms of a charter-party or management agreement are references to their being so assumed by him whether or not he has entered into a further charter-party or management agreement providing for them to be assumed by some other person.

#### Textual Amendments

**F35** Words in s. 98(3) substituted (E.W.) (12.3.2015) by [The Legal Aid, Sentencing and Punishment of Offenders Act 2012 \(Fines on Summary Conviction\) Regulations 2015 \(S.I. 2015/664\)](#), reg. 1(1), [Sch. 4 para. 27\(5\)](#) (with reg. 5(1))

## 99 Use of unsafe lighters, etc.

- (1) If any person uses or causes or permits to be used in navigation any lighter, barge or like vessel when, because of—
  - (a) the defective condition of its hull or equipment,
  - (b) overloading or improper loading, or
  - (c) undermanning,it is so unsafe that human life is thereby endangered, he shall be liable—
  - (i) on summary conviction, to a fine not exceeding the statutory maximum;
  - (ii) on conviction on indictment, to a fine.
- (2) Proceedings for an offence under this section shall not be instituted—
  - (a) in England and Wales, except by or with the consent of the Secretary of State; or
  - (b) in Northern Ireland, except by or with the consent of the Secretary of State.

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- (3) This section does not affect the liability of the owners of any lighter, barge or like vessel in respect of loss of life or personal injury caused to any person carried in the vessel.

#### **100 Owner liable for unsafe operation of ship.**

- (1) It shall be the duty of the owner of a ship to which this section applies to take all reasonable steps to secure that the ship is operated in a safe manner.
- (2) This section applies to—
- (a) any United Kingdom ship; and
  - (b) any ship which—
    - (i) is registered under the law of any country outside the United Kingdom, and
    - (ii) is within United Kingdom waters while proceeding to or from a port in the United Kingdom,
 unless the ship would not be so proceeding but for weather conditions or any other unavoidable circumstances.
- (3) If the owner of a ship to which this section applies fails to discharge the duty imposed on him by subsection (1) above, he shall be liable—
- (a) on summary conviction, to [<sup>F36</sup>a fine not exceeding £50,000][<sup>F36</sup>a fine];
  - (b) on conviction on indictment, to imprisonment for a term not exceeding two years or a fine, or both.
- (4) Where any such ship—
- (a) is chartered by demise, or
  - (b) is managed, either wholly or in part, by a person other than the owner under the terms of a management agreement within the meaning of section 98,
- any reference to the owner of the ship in subsection (1) or (3) above shall be construed as including a reference—
- (i) to the charterer under the charter by demise, or
  - (ii) to any such manager as is referred to in paragraph (b) above, or
  - (iii) (if the ship is both chartered and managed as mentioned above) to both the charterer and any such manager,
- and accordingly the reference in subsection (1) above to the taking of all reasonable steps shall, in relation to the owner, the charterer or any such manager, be construed as a reference to the taking of all such steps as it is reasonable for him to take in the circumstances of the case.
- (5) No proceedings for an offence under this section shall be instituted—
- (a) in England and Wales, except by or with the consent of the Secretary of State or the Director of Public Prosecutions;
  - (b) in Northern Ireland, except by or with the consent of the Secretary of State or the Director of Public Prosecutions for Northern Ireland.



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#### Textual Amendments

- F36** Words in s. 100(3)(a) substituted (E.W.) (12.3.2015) by [The Legal Aid, Sentencing and Punishment of Offenders Act 2012 \(Fines on Summary Conviction\) Regulations 2015 \(S.I. 2015/664\)](#), reg. 1(1), [Sch. 4 para. 27\(6\)](#) (with reg. 5(1))

*[<sup>F37</sup> Temporary exclusion zones*

#### Textual Amendments

- F37** Ss. 100A, 100B and crossheading inserted (23.3.1997) by [1997 c. 28, s. 1](#); [S.I. 1997/1082, art.2](#), [Sch.](#)

### <sup>F38</sup> **100A Power to establish temporary exclusion zones.**

- (1) Subsection (2) below applies where a ship, structure or other thing—
  - (a) is in United Kingdom waters or a part of the sea specified by virtue of section 129(2)(b); and
  - (b) is wrecked, damaged or in distress;and in this section and section 100B “the relevant casualty” means that ship, structure or other thing.
- (2) If it appears to the Secretary of State—
  - (a) that significant harm will or may occur as a direct or indirect result of the relevant casualty being wrecked, damaged or in distress, and
  - (b) that if access to an area around the relevant casualty were restricted in accordance with section 100B, significant harm, or the risk of such harm, would be prevented or reduced,he may by direction identify an area to which access is so restricted (“a temporary exclusion zone”).
- (3) In this section “significant harm” means—
  - (a) significant pollution in the United Kingdom, in United Kingdom waters or in a part of the sea specified by virtue of section 129(2)(b); or
  - (b) significant damage to persons or property.
- (4) A temporary exclusion zone may not include any area which is neither within United Kingdom waters nor within a part of the sea specified by virtue of section 129(2)(b).
- (5) If it appears to the Secretary of State at any time after a temporary exclusion zone is established that the zone is larger than is needed for the purpose of preventing or reducing significant harm, or the risk of such harm, he shall by direction vary the direction establishing the zone accordingly.
- (6) Subject to subsections (4) and (5) above, a temporary exclusion zone may be identified by reference to the position of the relevant casualty from time to time.
- (7) If it appears to the Secretary of State at any time after a temporary exclusion zone is established that the zone is not needed for the purpose of preventing or reducing significant harm, or the risk of such harm, he shall by direction revoke the direction establishing the zone.

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- (8) Where the Secretary of State gives a direction under this section, he shall—
- (a) as soon as practicable, publish it in such manner as he considers appropriate for bringing it to the attention of persons likely to be affected by it; and
  - (b) within the period of 24 hours from the giving of the direction, send a copy of it to the International Maritime Organization.
- (9) Subsection (2) above does not apply where an order under section 2 of the <sup>M1</sup>Protection of Wrecks Act 1973 has effect in relation to the relevant casualty.

#### Textual Amendments

**F38** Ss. 100A, 100B inserted (23.3.1997) by 1997 c. 28, s. 1; S.I. 1997/1082, art. 2, Sch.

#### Marginal Citations

**M1** 1973 c. 33.

### <sup>F39</sup>100B Temporary exclusion zones: offences

- (1) If a direction establishing a temporary exclusion zone contains a statement of a description mentioned in subsection (2) below, then, subject to subsection (4) below, no ship shall enter or remain in the zone.
- (2) The statement is one to the effect that the direction is given for the purpose of preventing or reducing significant pollution, or the risk of significant pollution, in the United Kingdom, in United Kingdom waters or in a part of the sea specified by virtue of section 129(2)(b).
- (3) If a direction establishing a temporary exclusion zone does not contain a statement of a description mentioned in subsection (2) above, then, subject to subsections (4) and (5) below—
  - (a) no ship shall enter or remain in any part of the zone that is in United Kingdom waters; and
  - (b) no United Kingdom ship shall enter or remain in any part of the zone that is in a part of the sea specified by virtue of section 129(2)(b).
- (4) A ship may enter or remain in a temporary exclusion zone or a part of such a zone if it does so—
  - (a) in accordance with the direction establishing the zone;
  - (b) with the consent of the Secretary of State; or
  - (c) in accordance with regulations made by the Secretary of State for the purposes of this section.
- (5) A qualifying foreign ship may enter a temporary exclusion zone or a part of such a zone if in doing so it is exercising the right of transit passage through straits used for international navigation.
- (6) If a ship enters or remains in a temporary exclusion zone or a part of such a zone in contravention of subsection (1) or (3) above then, subject to subsection (7) below, its owner and its master shall each be guilty of an offence and liable—
  - (a) on summary conviction, to [<sup>F40</sup>a fine not exceeding £50,000][<sup>F40</sup>a fine];
  - (b) on conviction on indictment, to imprisonment for a term not exceeding two years or to a fine or to both.

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(7) It shall be a defence for a person charged with an offence under this section to prove that the existence or area of the temporary exclusion zone was not, and would not on reasonable enquiry have become, known to the master.]

**Textual Amendments**

- F39** Ss. 100A, 100B inserted (23.3.1997) by 1997 c. 28, s. 1; S.I. 1997/1082, art. 2, **Sch.**
- F40** Words in s. 100B(6)(a) substituted (E.W.) (12.3.2015) by The Legal Aid, Sentencing and Punishment of Offenders Act 2012 (Fines on Summary Conviction) Regulations 2015 (S.I. 2015/664), reg. 1(1), **Sch. 4 para. 27(7)** (with reg. 5(1))

<sup>F41</sup> [ *Power to require ships to be moved* ]

**Textual Amendments**

- F41** Ss. 100C-100E and crossheading inserted (23.3.1997) by 1997 c. 28, s. 10; S.I. 1997/1082, art. 2, **Sch.**

<sup>F42F43</sup> ~~100C~~ **Power to require ships to be moved.**

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**Textual Amendments**

- F42** Ss. 100C-100E repealed (10.9.2003) by Marine Safety Act 2003 (c. 16), s. 4, Sch. 2 para. 2(a), **Sch. 3**
- F43** Ss. 100C-100E inserted (23.3.1997) by 1997 c. 28, s. 10; S.I. 1997/1082, art. 2, **Sch.**

<sup>F42F44</sup> ~~100D~~ **Offences in relation to section 100C.**

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**Textual Amendments**

- F42** Ss. 100C-100E repealed (10.9.2003) by Marine Safety Act 2003 (c. 16), s. 4, Sch. 2 para. 2(a), **Sch. 3**
- F44** Ss. 100C-100E inserted (23.3.1997) by 1997 c. 28, s. 10; S.I. 1997/1082, art. 2, **Sch.**

<sup>F42F45</sup> ~~100E~~ **Service of directions under section 100C.**

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**Textual Amendments**

- F42** Ss. 100C-100E repealed (10.9.2003) by Marine Safety Act 2003 (c. 16), s. 4, Sch. 2 para. 2(a), **Sch. 3**
- F45** Ss. 100C-100E inserted (23.3.1997) by 1997 c. 28, s. 10; S.I. 1997/1082, art. 2, **Sch.**

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**[<sup>F46</sup>100F Requirements to be met by ships in respect of which trans-shipment licences in force.**

- (1) In this section and section 100G “trans-shipment licence” means a licence under section 4A of the <sup>M2</sup>Sea Fish Conservation Act 1967 (prohibition of trans-shipment of fish unless authorised by a licence).
- (2) The Secretary of State may, for all or any of the purposes specified in subsection (3) below, by regulations prescribe requirements to be met by ships in respect of which trans-shipment licences are in force.
- (3) Those purposes are—
  - (a) the purpose of securing the safety of ships in respect of which trans-shipment licences are in force and persons on them,
  - (b) the purpose of protecting the health of persons on such ships,
  - (c) the purpose of securing the safety of any other persons or property, and
  - (d) the purpose of preventing or reducing pollution.
- (4) The matters with respect to which requirements may be prescribed under subsection (2) above include, in particular, the construction and equipment of ships, the manning of ships, and operational matters.
- (5) Without prejudice to the generality of subsection (2) above, regulations under that subsection may apply in relation to a ship in respect of which a trans-shipment licence is in force any requirements contained in—
  - (a) safety regulations,
  - (b) regulations under section 128, or
  - (c) any international agreement,
 whether or not those requirements would otherwise apply in relation to that ship.]

**Textual Amendments**

**F46** Ss. 100F-100G inserted (19.3.1997) by 1997 c. 28, ss. 11, 31(4)

**Marginal Citations**

**M2** 1967 c. 84.

**[<sup>F47</sup>100G Failure to comply with prescribed standards in respect of ship in respect of which trans-shipment licence is in force.**

- (1) If it appears to the Secretary of State that any requirement of regulations under section 100F(2) or regulations under section 192A is being contravened in respect of a ship in respect of which a trans-shipment licence is in force, he may serve on the master a notice under subsection (2) below.
- (2) A notice under this subsection must specify the contravention by reason of which it is given and must—
  - (a) prohibit the receiving by the ship of fish trans-shipped from another ship,
  - (b) prohibit the processing of fish on the ship, or
  - (c) prohibit both such receiving and such processing.

*Status: Point in time view as at 12/03/2015.*

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- (3) The Secretary of State shall revoke a notice under subsection (2) above if he is satisfied that the contravention specified in it has been remedied.
- (4) If a trans-shipment licence ceases to be in force in respect of a ship to which a notice under subsection (2) above relates, the notice is revoked by virtue of this subsection.
- (5) If without reasonable excuse the master of a ship causes or permits any prohibition imposed by a notice under subsection (2) above to be contravened in respect of the ship, he shall be liable—
  - (a) on summary conviction, to [<sup>F48</sup>a fine not exceeding £50,000][<sup>F48</sup>a fine];
  - (b) on conviction on indictment, to imprisonment for a term not exceeding two years or a fine or both.
- (6) The obligation imposed by regulations under section 100F(2) shall not be enforceable except in accordance with this section, but this subsection does not limit the powers conferred by section 258.

#### Textual Amendments

**F47** Ss. 100F-100G inserted (19.3.1997) by 1997 c. 28, ss. 11, 31(4)

**F48** Words in s. 100G(5)(a) substituted (E.W.) (12.3.2015) by [The Legal Aid, Sentencing and Punishment of Offenders Act 2012 \(Fines on Summary Conviction\) Regulations 2015 \(S.I. 2015/664\)](#), reg. 1(1), [Sch. 4 para. 27\(8\)](#) (with reg. 5(1))

### *Control of, and returns as to, persons on ships*

#### **101 Offences in connection with passenger ships.**

- (1) A person commits an offence if, in relation to a ship to which this section applies, he does any of the following things, that is to say—
  - (a) if, being drunk or disorderly, he has been on that account refused admission to the ship by the owner or any person in his employment, and, after having the amount of his fare (if he has paid it) returned or tendered to him, nevertheless persists in attempting to enter the ship;
  - (b) if, being drunk or disorderly on board the ship, he is requested by the owner or any person in his employment to leave the ship at any place in the United Kingdom at which he can conveniently do so, and, after having the amount of his fare (if he has paid it) returned or tendered to him, does not comply with the request;
  - (c) if, on board the ship, after warning by the master or other officer thereof, he molests or continues to molest any passenger;
  - (d) if, after having been refused admission to the ship by the owner or any person in his employment on account of the ship being full, and having had the amount of his fare (if he has paid it) returned or tendered to him, he nevertheless persists in attempting to enter the ship;
  - (e) if, having gone on board the ship at any place, and being requested, on account of the ship being full, by the owner or any person in his employment to leave the ship before it has left that place, and having had the amount of his fare (if he has paid it) returned or tendered to him, he does not comply with that request;

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- (f) if, on arriving in the ship at a point to which he has paid his fare, he knowingly and intentionally refuses or neglects to leave the ship; and
- (g) if, on board the ship he fails, when requested by the master or other officer thereof, either to pay his fare or show such ticket or other receipt, if any, showing the payment of his fare, as is usually given to persons travelling by and paying their fare for the ship;

but his liability in respect of any such offence shall not prejudice the recovery of any fare payable by him.

- (2) A person commits an offence if, on board any ship to which this section applies he intentionally does or causes to be done anything in such a manner as to—
  - (a) obstruct or damage any part of the machinery or equipment of the ship, or
  - (b) obstruct, impede or molest the crew, or any of them, in the navigation or management of the ship, or otherwise in the execution of their duty on or about the ship.
- (3) The master or other officer of any ship to which this section applies, and all persons called by him to his assistance, may, without any warrant, detain any person who commits any offence against subsection (1) or (2) above and whose name and address are unknown to the master or officer, and deliver that person to a constable.
- (4) A person guilty of an offence against subsection (1) or (2) above shall be liable, on summary conviction, to a fine not exceeding level 2 on the standard scale.
- (5) If any person commits an offence against subsection (1) or (2) above and on the application of the master of the ship, or any other person in the employment of the owner thereof, refuses to give his name and address, or gives a false name or address, that person shall be liable, on summary conviction, to a fine not exceeding level 2 on the standard scale.
- (6) This section applies to a ship for which there is in force a Passenger Ship Safety Certificate or Passenger Certificate, as the case may be, issued under or recognised by safety regulations.

## **102 Power to exclude drunken passengers from certain passenger ships.**

- (1) The master of any ship to which this section applies may refuse to receive on board any person who by reason of drunkenness or otherwise is in such a state, or misconducts himself in such a manner, as to cause annoyance or injury to passengers on board, and if any such person is on board, may put him on shore at any convenient place.
- (2) A person so refused admittance or put on shore shall not be entitled to the return of any fare he has paid.
- (3) This section applies to a ship (whether or not a United Kingdom ship) carrying more than 12 passengers and employed in carrying passengers between places in the limited European trading area as for the time being defined in regulations made under section 47 by the Secretary of State.

## **103 Stowaways.**

- (1) If a person, without the consent of the master or of any other person authorised to give it, goes to sea or attempts to go to sea in a United Kingdom ship, he shall be liable on summary conviction to a fine not exceeding level 3 on the standard scale.

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- (2) Nothing in section 281 shall be taken to limit the jurisdiction of any court in the United Kingdom to deal with an offence under this section which has been committed in a country outside the United Kingdom by a person who is not a British citizen.

#### **104 Unauthorised presence on board ship.**

Where a United Kingdom ship or a ship registered in any other country is in a port in the United Kingdom and a person who is neither in Her Majesty's service nor authorised by law to do so—

- (a) goes on board the ship without the consent of the master or of any other persons authorised to give it; or
- (b) remains on board the ship after being requested to leave by the master, a constable, an officer authorised by the Secretary of State or an officer of customs and excise,

he shall be liable on summary conviction to a fine not exceeding level 5 on the standard scale.

#### **105 Master's power of arrest.**

The master of any United Kingdom ship may cause any person on board the ship to be put under restraint if and for so long as it appears to him necessary or expedient in the interest of safety or for the preservation of good order or discipline on board the ship.

#### **106 Unauthorised persons: offences relating to safety.**

- (1) Where a person goes to sea in a ship without the consent of the master or of any other person authorised to give it or is conveyed in a ship in pursuance of section 73(5)(b), sections 58 and 59 shall apply as if he were a seaman employed in the ship.
- (2) Subsection (1) above shall, in its application to section 58 so far as that section applies to ships which are not sea-going ships have effect—
  - (a) with the omission of the words “goes to sea in a ship”; and
  - (b) with the insertion, after the words “to give it”, of the words “ is on board a ship while it is on a voyage or excursion ”.
- (3) This section does not apply to fishing vessels.

#### **107 Return to be furnished by masters of ships as to passengers.**

- (1) The master of every ship, whether or not a United Kingdom ship, which carries any passenger to a place in the United Kingdom from any place out of the United Kingdom, or from any place in the United Kingdom to any place out of the United Kingdom, shall furnish to such person and in such manner as the Secretary of State directs a return giving the total number of any passengers so carried, distinguishing, if so directed by the Secretary of State, the total number of any class of passengers so carried, and giving, if the Secretary of State so directs, such particulars with respect to passengers as may be for the time being required by the Secretary of State.
- (2) Any passenger shall furnish the master of the ship with any information required by him for the purpose of the return.
- (3) If—

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- (a) the master of a ship fails to make a return as required by this section, or makes a false return,
- (b) any passenger refuses to give any information required by the master of the ship for the purpose of the return required by this section, or, for that purpose, gives to the master information which he knows to be false or recklessly gives to him information which is false,

the master or (as the case may be) passenger shall be liable on summary conviction to a fine not exceeding level 2 on the standard scale in the case of a failure or refusal and level 3 on the standard scale in the case of a false return or false information.

## **108 Returns of births and deaths in ships, etc.**

- (1) The Secretary of State may make regulations under the following provisions of this section in relation to births and deaths in the circumstances specified in those provisions.
- (2) Regulations under this section may require the master of any United Kingdom ship to make a return to a superintendent or proper officer of—
  - (a) the birth or death of any person occurring in the ship; and
  - (b) the death of any person employed in the ship, wherever occurring outside the United Kingdom;
 and to notify any such death to such person (if any) as the deceased may have named to him as his next of kin.
- (3) Regulations under this section may require the master of any ship not registered in the United Kingdom which calls at a port in the United Kingdom in the course of or at the end of a voyage to make a return to a superintendent of any birth or death of a British citizen, a British Dependent Territories citizen or a British Overseas citizen which has occurred in the ship during the voyage.
- (4) The returns referred to in subsections (2) and (3) above shall be for transmission to the Registrar General of Shipping and Seamen.
- (5) Regulations under this section may require the Registrar General of Shipping and Seamen to record such information as may be specified in the regulations about such a death as is referred to in subsection (2) above in a case where—
  - (a) it appears to him that the master of the ship cannot perform his duty under that subsection because he has himself died or is incapacitated or missing; and
  - (b) any of the circumstances specified in subsection (6) below exist.
- (6) Those circumstances are that—
  - (a) the death in question has been the subject of—
    - (i) an inquest held by a coroner,
    - (ii) an inquiry held in pursuance of section 271, or
    - (iii) an inquiry held in pursuance of the <sup>M3</sup>Fatal Accidents and Sudden Deaths Inquiry (Scotland) Act 1976;
 and the findings of the inquest or inquiry include a finding that the death occurred;
  - (b) the deceased's body has been the subject of—
    - (i) a post-mortem examination in England and Wales, or
    - (ii) a preliminary investigation in Northern Ireland;



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- and in consequence the coroner <sup>F49</sup> discontinues an investigation under Part 1 of the Coroners and Justice Act 2009 or, as the case may be, is satisfied that an inquest under the Coroners Act (Northern Ireland) 1959 is unnecessary]; or
- (c) in Scotland, it does not appear to the Lord Advocate, under section 1(1)(b) of the Fatal Accidents and Sudden Deaths Inquiry (Scotland) Act 1976, to be expedient in the public interest that an inquiry under that Act should be held.
- (7) Regulations under this section may require the Registrar General of Shipping and Seamen to send a certified copy of any return or record made thereunder to the Registrar General for England and Wales, the Registrar General of Births, Deaths and Marriages for Scotland or the Registrar General for Northern Ireland, as the case may require.
- (8) The Registrar General to whom any such certified copies are sent—
- (a) shall record the information contained therein in the marine register; and
- (b) may record in the marine register such additional information as appears to him desirable for the purpose of ensuring the completeness and correctness of the register;
- and the enactments relating to the registration of births and deaths in England, Scotland and Northern Ireland shall have effect as if the marine register were a register of births (other than stillbirths) or deaths or certified copies of entries in such a register had been transmitted to the Registrar General in accordance with those enactments.
- (9) Regulations under this section may make a contravention of any provision thereof an offence punishable on summary conviction with a fine not exceeding level 2 on the standard scale or not exceeding a lesser amount.
- (10) Regulations under this section may contain provisions authorising the registration of the following births and deaths occurring outside the United Kingdom in circumstances where no return is required to be made under the preceding provisions of this section—
- (a) any birth or death of a British citizen, a British Dependent Territories citizen or a British Overseas citizen which occurs in a ship not registered in the United Kingdom;
- (b) any death of any such citizen who has been employed in a ship not registered in the United Kingdom which occurs elsewhere than in the ship; and
- (c) any death of a person who has been employed in a United Kingdom ship which occurs elsewhere than in the ship.
- (11) References in this section to deaths occurring in a ship include references to deaths occurring in a ship's boat.

#### Textual Amendments

**F49** Words in s. 108(6)(b) substituted (25.7.2013) by [Coroners and Justice Act 2009 \(c. 25\), s. 182\(4\)\(e\), Sch. 21 para. 33](#) (with s. 180); S.I. 2013/1869, art. 2(o)(xv)

#### Marginal Citations

**M3** 1976 c. 14

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## [<sup>F50</sup>108A Safety directions

- (1) Schedule 3A (safety directions) shall have effect.
- (2) A provision made by or by virtue of this Act (including one which creates an offence) shall have no effect in so far as it—
  - (a) is inconsistent with the exercise by or on behalf of the Secretary of State of a power under Schedule 3A (safety directions),
  - (b) would interfere with a person's compliance with a direction under that Schedule, or
  - (c) would interfere with action taken by virtue of that Schedule.]

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### Textual Amendments

**F50** S. 108A inserted (10.9.2003) by [Marine Safety Act 2003 \(c. 16\)](#), ss. 1(1), 4

**Status:**

Point in time view as at 12/03/2015.

**Changes to legislation:**

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