

*Status: Point in time view as at 23/03/1997.*

*Changes to legislation: Merchant Shipping Act 1995, Cross Heading: Power to require ships to be moved is up to date with all changes known to be in force on or before 19 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*



# Merchant Shipping Act 1995

## 1995 CHAPTER 21

### PART IV

#### SAFETY

*[<sup>F1</sup> Power to require ships to be moved]*

#### Textual Amendments

**F1** Ss. 100C-100E and crossheading inserted (23.3.1997) by 1997 c. 28, s. 10; S.I. 1997/1082, art. 2, Sch.

#### <sup>F2</sup>100C Power to require ships to be moved.

- (1) The powers conferred by this section shall be exercisable where a ship in United Kingdom waters—
  - (a) is not a qualifying foreign ship, or
  - (b) is such a ship but appears to the Secretary of State to be exercising neither of the following rights—
    - (i) the right of innocent passage, and
    - (ii) the right of transit passage through straits used for international navigation.
- (2) Subject to subsection (3) below, the Secretary of State may, for any one or more of the purposes specified in subsection (4) below, give directions to any of the persons specified in subsection (5) below requiring—
  - (a) that the ship is to be moved, or is to be removed from a specified area or locality or from United Kingdom waters, or
  - (b) that the ship is not to be moved to a specified place or area within United Kingdom waters, or over a specified route within United Kingdom waters.

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- (3) The power of the Secretary of State under subsection (2)(a) above to require a ship to be removed from United Kingdom waters is not exercisable in relation to a United Kingdom ship.
- (4) The purposes referred to in subsection (2) above are—
  - (a) the purpose of securing the safety of the ship or of other ships, of persons on the ship or other ships, or of any other persons or property, or of preventing or reducing any risk to such safety, and
  - (b) the purpose of preventing or reducing 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 of preventing or reducing any risk of such pollution.
- (5) The persons referred to in subsection (2) above are—
  - (a) the owner of the ship or any person in possession of the ship, or
  - (b) the master of the ship.
- (6) If in the opinion of the Secretary of State the powers conferred by subsection (2) above are, or have proved to be, inadequate for any of the purposes specified in subsection (4) above, the Secretary of State may for that purpose take any such action as he has power to require to be taken by a direction under this section.
- (7) The powers of the Secretary of State under subsection (6) above shall also be exercisable by such persons as may be authorised for the purpose by the Secretary of State.
- (8) Every person concerned with compliance with directions given, or with action taken, under this section shall use his best endeavours to avoid any risk to human life.
- (9) It is hereby declared that any action taken as respects a ship which is under arrest or as respects the cargo of such a ship, being action duly taken in pursuance of a direction given under this section, or being any action taken under subsection (6) or (7) above—
  - (a) does not constitute contempt of court; and
  - (b) does not in any circumstances make the Admiralty Marshal liable in any civil proceedings.
- (10) In this section—
  - (a) unless a contrary intention appears, “specified” in relation to a direction under this section, means specified by the direction; and
  - (b) the reference in subsection (9) above to the Admiralty Marshal includes a reference to the Admiralty Marshal of the Supreme Court of Northern Ireland.

#### Textual Amendments

**F2** Ss. 100C-100E inserted (23.3.1997) by 1997 c. 28, s. 10; S.I. 1997/1082, art. 2, Sch.

### <sup>F3</sup>100D Offences in relation to section 100C.

- (1) If the person to whom a direction is duly given under section 100C contravenes, or fails to comply with, any requirement of the direction, he shall be guilty of an offence.
- (2) If a person intentionally obstructs any person who is—

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- (a) acting on behalf of the Secretary of State in connection with the giving or service of a direction under section 100C;
- (b) acting in compliance with a direction under that section; or
- (c) acting under section 100C(6) or (7);

he shall be guilty of an offence.

- (3) In proceedings for an offence under subsection (1) above, it shall be a defence for the accused to prove that he has used all due diligence to ensure compliance with the direction, or that he had reasonable cause for believing that compliance with the direction would have involved a serious risk to human life.
- (4) A person guilty of an offence under this section shall be liable—
  - (a) on summary conviction, to a fine not exceeding £50,000;
  - (b) on conviction on indictment, to a fine.

#### Textual Amendments

**F3** Ss. 100C-100E inserted (23.3.1997) by 1997 c. 28, s. 10; S.I. 1997/1082, art. 2, Sch.

#### [<sup>F4</sup>100E Service of directions under section 100C.

- (1) If the Secretary of State is satisfied that a company or other body is not one to which section 695 or section 725 of the <sup>M1</sup>Companies Act 1985 (service of notices) applies so as to authorise the service of a direction on that body under either of those sections, he may give a direction under section 100C of this Act to that body, as the owner of, or the person in possession of, a ship, by serving the direction on the master of the ship.
- (2) For the purpose of giving or serving a direction under section 100C to or on any person on a ship, a person acting on behalf of the Secretary of State shall have the right to go on board the ship.
- (3) In the application of subsection (1) above to Northern Ireland, for references to sections 695 and 725 of the <sup>M2</sup>Companies Act 1985 there shall be substituted references to Articles 645 and 673 of the <sup>M3</sup>Companies (Northern Ireland) Order 1986.]

#### Textual Amendments

**F4** Ss. 100C-100E inserted (23.3.1997) by 1997 c. 28, s. 10; S.I. 1997/1082, art. 2, Sch.

#### Marginal Citations

**M1** 1985 c. 6.  
**M2** 1985 c. 6.  
**M3** S.I. 1986/1032 (N.I. 6).

#### [<sup>F5</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>M4</sup>Sea Fish Conservation Act 1967 (prohibition of trans-shipment of fish unless authorised by a licence).

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- (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

**F5** Ss. 100F-100G inserted (19.3.1997) by 1997 c. 28, ss. 11, 31(4)

#### Marginal Citations

**M4** 1967 c. 84.

#### <sup>F6</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.
- (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.

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- (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 a fine not exceeding £50,000;
  - (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.

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**Textual Amendments**

**F6** Ss. 100F-100G inserted (19.3.1997) by 1997 c. 28, ss. 11, 31(4)

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