



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;
 - ^{F1}(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.]
- ^{F2F2}(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.
- ^{F2}(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—

Status: Point in time view as at 23/03/1997.

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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,^{F3} . . . , 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 [^{F4}paragraph (a) or (b)] of subsection (1) above.

- (4) The power to make regulations conferred by [^{F5}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.

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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)

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.

(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

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consult such persons in the United Kingdom (if any) as he considers will be affected by the proposal.

^{F6}(5)

^{F6}(6)

Textual Amendments

F6 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;
 - (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;

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- (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.

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