



# Merchant Shipping Act 1995

## 1995 CHAPTER 21

### PART IV

#### SAFETY

##### *Unsafe ships*

#### **96 References of detention notices to arbitration.**

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

*Status: Point in time view as at 24/11/2006. This version of this provision has been superseded.*

*Changes to legislation: Merchant Shipping Act 1995, Section 96 is up to date with all changes known to be in force on or before 10 August 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)*

- (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—
- (a) he has a 10 year general qualification (within the meaning of section 71 of the <sup>M1</sup>Courts and Legal Services Act 1990);
  - (b) he is an advocate or solicitor in Scotland of at least 10 years' standing; or
  - (c) he is a member of the bar of Northern Ireland or solicitor of the Supreme Court of Northern Ireland of at least 10 years' standing.
- (8) In connection with his functions under this section an arbitrator shall have the powers conferred on an inspector by section 259.
- (9) In the application of this section to Scotland any reference to an arbitrator shall be construed as a reference to an arbiter and the reference in subsection (1) above to a single arbitrator appointed by agreement between the parties shall be construed as a reference to a single arbiter so appointed or, in default of agreement, appointed by the sheriff.
- <sup>F1</sup>(10) . . . . .
- (11) In this section “relevant inspector” has the same meaning as in section 95.

#### Textual Amendments

- F1** 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)**)

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- 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**

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**Marginal Citations**

- M1** 1990 c. 41.

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