



Shipping and Trading Interests (Protection) Act 1995

1995 CHAPTER 22

Protection of coastal shipping services

- 5 Power to prohibit provision of coastal shipping services which are not British-based**
- (1) The Secretary of State may by order provide for the provision of shipping services to which this section applies to be prohibited except where such services are provided from one or more permanent places of business maintained in the British Islands.
- (2) This section applies to the following shipping services—
- (a) the carriage of goods or passengers by sea—
 - (i) between ports in the United Kingdom, or
 - (ii) between a port in the United Kingdom and an offshore installation in United Kingdom controlled waters, or
 - (iii) between offshore installations in United Kingdom controlled waters;
 - (b) the carriage of passengers by sea on voyages or excursions beginning and ending at the same port in the United Kingdom, other than voyages or excursions which involve calling at any port or ports outside the British Islands (whether passengers disembark there or not); and
 - (c) shipping services (other than the carriage of goods or passengers by sea) which are—
 - (i) provided by means of ships operating out of ports in the United Kingdom (whether so provided within United Kingdom controlled waters or not), or
 - (ii) provided within United Kingdom controlled waters by means of ships operating out of ports outside the United Kingdom.
- (3) An order under this section may make provision—

- (a) with respect to the circumstances in which shipping services are to be regarded for the purposes of the order as being provided from one or more permanent places of business maintained in the British Islands;
 - (b) authorising the Secretary of State to issue licences sanctioning the provision of shipping services to which this section applies, notwithstanding that they are not provided as mentioned in paragraph (a) above, in cases where he is satisfied that there is no-one willing and able to provide the services in question as mentioned in that paragraph;
 - (c) requiring the payment, in connection with applications for such licences, of fees determined with the approval of the Treasury;
 - (d) exempting any prescribed class or description of shipping services from any prohibition imposed by virtue of subsection (1) above;
 - (e) authorising the Secretary of State, or a person appointed by him for the purpose, to serve notices requiring the production or furnishing of documents or information appearing to the Secretary of State or any such person to be necessary to enable him to determine such matters as may be prescribed;
 - (f) with respect to the manner of service of notices in pursuance of paragraph (e) above.
- (4) An order under this section may—
- (a) make different provision for different circumstances;
 - (b) make such transitional, incidental or supplementary provision as appears to the Secretary of State to be necessary or expedient.
- (5) The provisions of an order under this section shall not discriminate between shipping services provided by different persons on the basis of the place of registration of the ships by means of which the services are provided.
- (6) Section 256(1) of the Merchant Shipping Act 1995 (appointment of inspectors) shall have effect in relation to—
- (a) any order under this section, or
 - (b) any licence issued by virtue of subsection (3)(b) above,
- as it has effect in relation to any such regulations or licence as is referred to in subsection (1)(b) and (9) of that section; but section 259 of that Act shall have effect in relation to any inspector appointed by virtue of this subsection with the omission of paragraphs (f) to (h) of subsection (2) of that section.
- (7) The power to make an order under this section shall be exercisable by statutory instrument, but no such order shall be made unless a draft of it has been laid before and approved by resolution of each House of Parliament.
- (8) In this section—
- “offshore installation” has the same meaning as in the Mineral Workings (Offshore Installations) Act 1971;
 - “prescribed” means prescribed by an order under this section;
 - “shipping services” means—
- (a) the carriage of goods or passengers by sea;
 - (b) services provided by offshore support vessels, and
 - (c) such other services provided by means of ships as the Secretary of State may specify in an order under this section;

“United Kingdom controlled waters” means waters within the seaward limits of the territorial sea of the United Kingdom and waters in any area designated under section 1(7) of the Continental Shelf Act 1964.

6 Enforcement of section 5

(1) Where—

- (a) any ship is used in the course of the provision of any shipping services to which section 5 applies, or
- (b) anything is done on board a ship with a view to its being used to provide such services,

and the provision of those services is prohibited by virtue of subsection (1) of that section and is not sanctioned by any licence issued by virtue of subsection (3)(b) of that section, then (subject to subsections (6) and (7) below), the master and the owner of the ship shall each be guilty of an offence.

(2) Where the 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,

the reference in subsection (1) above to the owner of the ship 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.

(3) Any person who—

- (a) in connection with an application for such a licence as is mentioned in section 5(3)(b), or
- (b) in purported compliance with the requirements of any notice served on him by virtue of section 5(3)(e),

knowingly or recklessly furnishes information which is false in a material particular shall be guilty of an offence.

(4) Any person who—

- (a) without reasonable excuse (the proof of which lies on him) fails to comply with the requirements of any such notice, or
- (b) intentionally alters, suppresses, conceals or destroys a document which he has been required to produce in pursuance of section 5(3)(e),

shall be guilty of an offence.

(5) Any 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 imprisonment for a term not exceeding two years or a fine, or both.

(6) It shall be a defence in proceedings under subsection (1) above against the master of a ship to prove—

- (a) that he did not know and had no reason to suspect that, in the circumstances of the case, the provision of the shipping services referred to in paragraph (a)

or (as the case may be) paragraph (b) of that subsection was prohibited by virtue of section 5(1), or

(b) that he had reasonable grounds for believing that the provision of those services was sanctioned by a licence issued by virtue of section 5(3)(b).

- (7) It shall be a defence in proceedings brought under subsection (1) above against a person other than the master of a ship to prove that, under the terms of one or more charter-parties or management agreements entered into by the defendant, the right to determine the purpose for which the ship in question was being used at the time of the alleged offence was wholly vested in some other person or persons party thereto (whether or not any such other person or persons had entered into a further charter-party or management agreement providing for that right to be vested in some other person).
- (8) Subsections (1), (3) and (4) above apply to offences falling within those subsections wherever committed.
- (9) 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).