



Shipping and Trading Interests (Protection) Act 1995

1995 CHAPTER 22

Protection of shipping etc interests from foreign action

1 Power to regulate provision of shipping services, etc in event of foreign action.

- (1) The Secretary of State may exercise the powers conferred by this section if he is satisfied that—
- a foreign government, or
 - persons purporting to exercise governing authority over any territory outside the United Kingdom, or
 - any agency or authority of a foreign government or of such persons,
- have adopted, or propose to adopt, measures or practices concerning or affecting any shipping services which—
- are damaging or threaten to damage the shipping or trading interests of the United Kingdom, or
 - are damaging or threaten to damage the shipping or trading interests of another State,
- and, in the latter case, the Secretary of State is satisfied that action under this section would be in fulfilment of the obligations of the United Kingdom to that other State or would be appropriate in view of any arrangements made between Her Majesty's Government and the government of that other State.
- (2) The Secretary of State may by order make provision for requiring persons in the United Kingdom carrying on any trade or business to provide the Secretary of State with all such information as he may require for the purpose of enabling him—
- to determine what further action to take under this section, and
 - to ensure compliance with any orders or directions made or given under this section.
- (3) The Secretary of State may by order (a “protective order”) provide for—

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- (a) regulating the provision of any shipping services and the rates, fares or other amounts which may or must be charged for providing those services;
- (b) regulating—
 - (i) the admission and departure of ships to and from United Kingdom ports,
 - (ii) the nature of the shipping services they may be used to provide (whether by reference to the cargoes or passengers they may carry or otherwise), and
 - (iii) the loading or unloading of cargoes, the embarkation or disembarkation of passengers, or the doing of other things in connection with the provision of any shipping services;
- (c) regulating the making and implementation of agreements (including charterparties) whose subject matter relates directly or indirectly to the provision of any shipping services, and requiring such agreements to be subject to the Secretary of State's approval in such cases as he may specify;
- (d) imposing charges in respect of ships which enter United Kingdom ports in connection with the provision of any shipping services;
- (e) imposing, in pursuance of any Community obligation, such tax or duty payable by such persons and in such circumstances as the Secretary of State may specify;

and in this subsection "regulating", except in relation to the rates, fares or other amounts which may or must be charged as mentioned in paragraph (a) above, includes imposing a prohibition.

- (4) In a case falling within subsection (1)(i) above, a protective order shall specify the measures or practices which in the opinion of the Secretary of State are damaging or threaten to damage shipping or trading interests of the United Kingdom.
- (5) An order under this section may authorise the Secretary of State to give directions to any person for the purposes of the order.
- (6) Any order or direction made or given under this section—
 - (a) may be either general or special, and may be subject to such conditions or exceptions as the Secretary of State specifies (including conditions and exceptions operating by reference to the giving or withholding of his approval for any course of action);
 - (b) may be in terms that require compliance either generally or only in specified cases.
- (7) The power to make an order under this section shall be exercisable by statutory instrument.
- (8) Before the Secretary of State makes an order under this section he shall consult such representatives of the shipping or trading interests of the United Kingdom, and such other persons, as appear to him appropriate.
- (9) In this section—
 - (a) "foreign government" means the government of any State other than the United Kingdom;
 - (b) references to an agency or authority of a foreign government or of such persons as are mentioned in subsection (1)(b) above include references to any undertaking appearing to the Secretary of State to be, or to be acting on

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- behalf of, an undertaking which is in effect owned or controlled (directly or indirectly) by a State other than, or by a territory outside, the United Kingdom;
- (c) “port” includes an offshore terminal, and references to entering or leaving a port include references to using or ceasing to use an offshore terminal;
 - (d) “shipping services” means services provided by means of ships, and includes the carriage of goods or passengers by sea, cable laying, dredging, and services provided by offshore support vessels; and
 - (e) references to ships are to ships of any registration.
- (10) A recital in an order under this section that the persons who have adopted, or propose to adopt, the measures or practices in question are—
- (a) a foreign government, or
 - (b) such persons as are mentioned in subsection (1)(b) above, or
 - (c) an agency or authority of a foreign government or of such persons,
- shall be conclusive.

2 Special provision for orders under section 1 imposing taxation etc.

- (1) This section applies in relation to protective orders made under subsection (3)(d) or (e) of section 1 (such an order being referred to below as a “charging order”).
- (2) No charging order shall authorise the Secretary of State to give directions to any person for the purpose of recovering any charge, tax or duty.
- (3) Without prejudice to subsection (6) of that section, a charging order—
 - (a) may apply to ships of any description specified in the order, and may apply in particular to ships registered in a specified country, or to ships carrying goods or cargoes of a specified description or providing any other specified shipping services;
 - (b) may contain such provisions as appear to the Secretary of State expedient to enable the Commissioners of Customs and Excise to collect any charge, tax or duty imposed by the order; and
 - (c) may apply, subject to any modifications or exceptions specified in the order, any of the enactments for the time being in force relating to duties (whether of customs or excise) chargeable on goods imported into the United Kingdom.
- (4) Any charge, tax or duty imposed by a charging order—
 - (a) may be a fixed amount, or an amount depending on the tonnage of the ship;
 - (b) shall be payable to the Secretary of State.
- (5) A charging order shall not be made except with the consent of the Treasury.
- (6) Any sum received by the Secretary of State shall be paid into the Consolidated Fund.

3 Enforcement of section 1.

- (1) An order made under section 1 with the consent of the Commissioners of Customs and Excise may provide for the enforcement and execution of any order or direction under that section by officers of customs and excise.
- (2) Officers of customs and excise acting under any provision made under subsection (1) above shall have power to enter any premises or ship.

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- (3) Section 65 of the ^{M1}Customs and Excise Management Act 1979 (power to refuse or cancel clearance of ship or aircraft) shall apply as if sections 1 and 2 and this section were contained in that Act.
- (4) If a person discloses any information which has been furnished to or obtained by him under section 1 or 2, or in connection with the execution of section 1 or 2, he shall, unless the disclosure is made—
- (a) with the consent of the person from whom the information was obtained, or
 - (b) in connection with the execution of section 1 or 2, or
 - (c) for the purposes of any legal proceedings arising out of this section or of any report of such proceedings, or
 - (d) in pursuance of a Community obligation to a Community institution,
- be liable, on summary conviction, to a fine not exceeding level 5 on the standard scale.
- (5) A person who—
- (a) refuses or intentionally neglects to furnish any information which he is required to furnish under section 1 or 2, or
 - (b) in furnishing any such information makes any statement which he knows to be false in a material particular, or recklessly makes any statement which is false in a material particular,
- shall be liable, on summary conviction, to a fine not exceeding level 4 on the standard scale in the case of an offence under paragraph (a) above and not exceeding level 5 on the standard scale in the case of an offence under paragraph (b) above.
- (6) A person who intentionally contravenes or fails to comply with any provision of an order or direction made or given pursuant to section 1 or 2, other than a provision requiring him to give any information, shall be liable—
- (a) on summary conviction, to a fine of not more than £5,000;
 - (b) on conviction on indictment, to a fine;
- and where the order or direction requires anything to be done, or not to be done, by, to or on a ship, and the requirement is not complied with, the owner and master of the ship are each to be regarded as intentionally failing to comply, without prejudice to the liability of anyone else.
- (7) A person shall not be guilty of an offence against any provision contained in or having effect under section 1 or 2 by reason only of something done by that person wholly outside the territory of the United Kingdom unless that person is a Commonwealth citizen under the ^{M2}British Nationality Act 1981 or a company incorporated under the law of any part of the United Kingdom.

Modifications etc. (not altering text)

C1 S. 3(4): disclosure powers extended (14.12.2001) by 2001 c. 24, ss. 17, 127(2)(a), Sch. 4 Pt. I para. 36

Marginal Citations

M1 1979 c. 2.

M2 1981 c. 61.

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4 Parliamentary control of orders under section 1.

- (1) Subject to subsection (3) below, no protective order shall be made unless—
 - (a) a draft has been approved by resolution of each House of Parliament, or
 - (b) it is declared in the order that it appears to the Secretary of State that by reason of urgency it is necessary to make the order without a draft having been so approved.
- (2) Subject to subsection (3) below, a protective order made without a draft having been approved by resolution of each House of Parliament shall cease to have effect at the expiration of a period of 28 days beginning with the date on which it was made unless before the expiration of that period it has been approved by resolution of each House of Parliament, but without prejudice to anything previously done, or to the making of a new order.

In reckoning for the purposes of this subsection any period of 28 days, no account shall be taken of any period during which Parliament is dissolved or prorogued or during which both Houses are adjourned for more than four days.
- (3) Subsections (1) and (2) above do not apply to a protective order which is made for the purpose only of implementing any Community obligation.
- (4) An order under section 1 which is not a protective order shall be subject to annulment in pursuance of a resolution of either House of Parliament.
- (5) If an order under that section recites that it is made as mentioned in subsection (3) above, or that it is not a protective order, the recital shall be conclusive.

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