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STATUTORY INSTRUMENTS

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**1998 No. 2070**

**The Merchant Shipping (Radio Installations) Regulations 1998**

**PART IV**

**ENFORCEMENT**

**[<sup>F1</sup>Power to detain**

**49.**—(1) For the purposes of this regulation, any reference to “the Act” is a reference to the Merchant Shipping Act 1995.

(2) Subject to paragraph (10), a ship which does not comply with a requirement in these Regulations or Merchant Shipping Notice 1903 (M) applicable to that ship may be detained.

(3) Section 284 of the Act applies where a ship is liable to be detained under this regulation as if—

- (a) references to detention of a ship under the Act were references to detention of the ship in question under this regulation; and
- (b) subsection (7) were omitted.

(4) Where a ship is liable to be detained under this regulation, the person detaining the ship must serve on the master a detention notice which—

- (a) states the grounds of the detention; and
- (b) requires the terms of the notice to be complied with until the ship is released by any person mentioned in section 284(1) of the Act.

(5) Subject to paragraph (6), section 96 (references of detention notices to arbitration) and section 97 (compensation in connection with invalid detention of a ship) of the Act apply in relation to a detention notice issued pursuant to this regulation as they apply in relation to detention notices issued pursuant to section 95 (power to detain dangerously unsafe ship).

(6) For the purposes of paragraph (5)—

- (a) section 96 of the Act applies as if—
  - (i) subsection (3) were omitted;
  - (ii) the words “as a dangerously unsafe ship” in subsection (5) were omitted;
  - (iii) subsection (11) were omitted; and
- (b) sections 96 and 97 of the Act apply as if “the relevant inspector” means a person issuing the detention notice pursuant to this regulation.

(7) Subject to paragraph (8), where a non-United Kingdom ship is detained, the Secretary of State must immediately inform the ship’s flag administration in writing.

(8) If it is not possible to inform the ship’s flag administration in accordance with paragraph (7), the Secretary of State must inform the Consul of the State of the flag administration, or in the absence of a Consul, the nearest diplomatic representative of the State of the flag administration.

(9) For the purposes of paragraphs (7) and (8), “flag administration” in relation to a ship means the administration of the State whose flag the ship is entitled to fly.

(10) A ship must not be detained in a port where repair facilities are not readily available by reason of malfunction of the equipment for providing general radiocommunications referred to in paragraph 2.1.8 of Merchant Shipping Notice 1903 (M) if the ship is capable of performing all other distress and safety functions as required by that Merchant Shipping Notice.]

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#### Textual Amendments

- F1** Reg. 49 substituted (24.12.2021) by [The Merchant Shipping \(Radiocommunications\) \(Amendment\) Regulations 2021 \(S.I. 2021/1316\)](#), reg. 1(1), **Sch. 1 para. 14** (with reg. 4)

#### Penalties

**50.**—(1) If a <sup>F2</sup>... person nominated under regulation 18(7) of these Regulations contravenes any provision of these Regulations imposing a duty on him, he shall be guilty of an offence punishable on summary conviction to a fine not exceeding level 2 on the standard scale; and if any person, being the owner or master of the ship, permits such a contravention, he shall be guilty of an offence punishable on summary conviction to a fine not exceeding the statutory maximum or, on conviction on indictment, to imprisonment for a term not exceeding 2 years or a fine, or both.

(2) If these Regulations are contravened in any other respect in relation to any ship, the owner and master of the ship shall each be guilty of an offence punishable on summary conviction to a fine not exceeding the statutory maximum or, on conviction on indictment, to imprisonment for a term not exceeding 2 years or a fine, or both.

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#### Textual Amendments

- F2** Words in [reg. 50\(1\)](#) omitted (24.12.2021) by virtue of [The Merchant Shipping \(Radiocommunications\) \(Amendment\) Regulations 2021 \(S.I. 2021/1316\)](#), reg. 1(1), **Sch. 1 para. 15** (with reg. 4)

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#### Commencement Information

- I1** [Reg. 50](#) in force at 28.9.1998, see [reg. 1\(1\)](#)

#### Defence

**51.** It shall be a defence for a person charged under these Regulations to show that he took all reasonable precautions to avoid the commission of the offence.

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#### Commencement Information

- I2** [Reg. 51](#) in force at 28.9.1998, see [reg. 1\(1\)](#)

#### <sup>F3</sup>Review of Regulations

**52.**—(1) The Secretary of State must from time to time—

- (a) carry out a review of the regulatory provision contained in these Regulations; and
  - (b) publish a report setting out the conclusions of the review.
- (2) The first report must be published before 24th December 2026.
- (3) Subsequent reports must be published at intervals not exceeding 5 years.

(4) Section 30(4) of the Small Business, Enterprise and Employment Act 2015 requires that a report published under this regulation must, in particular—

- (a) set out the objectives intended to be achieved by the regulatory provision referred to in paragraph (1)(a);
- (b) assess the extent to which those objectives are achieved;
- (c) assess whether those objectives remain appropriate; and
- (d) if those objectives remain appropriate, assess the extent to which they could be achieved in another way which involves less onerous regulatory provision.

(5) In this regulation, “regulatory provision” has the same meaning as in sections 28 to 32 of the Small Business, Enterprise and Employment Act 2015 (see section 32 of that Act).]

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**Textual Amendments**

- F3** Reg. 52 inserted (24.12.2021) by The Merchant Shipping (Radiocommunications) (Amendment) Regulations 2021 (S.I. 2021/1316), reg. 1(1), **Sch. 1 para. 16** (with reg. 4)

**Changes to legislation:**

There are currently no known outstanding effects for the The Merchant Shipping (Radio Installations) Regulations 1998, PART IV.