

*This Statutory Instrument has been made in consequence of defects in [SI 2004/1495](#) and is being issued free of charge to all known recipients of that Statutory Instrument.*

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STATUTORY INSTRUMENTS

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**2005 No. 1434**

**MERCHANT SHIPPING**

**MARITIME SECURITY**

**The Ship and Port Facility (Security)  
(Amendment) Regulations 2005**

*Made - - - - 25th May 2005*

*Laid before Parliament 2nd June 2005*

*Coming into force - - 1st July 2005*

The Secretary of State for Transport, being a Minister designated<sup>(1)</sup> for the purposes of section 2(2) of the European Communities Act 1972<sup>(2)</sup> in relation to port security, measures relating to the safety of ships and the health and safety of persons on them and maritime transport, in exercise of the powers conferred upon him by that section hereby makes the following Regulations:

**Citation and commencement**

1. These Regulations may be cited as the Ship and Port Facility (Security) (Amendment) Regulations 2005 and shall come into force on 1st July 2005.

**Amendments to the 2004 Regulations**

2.—(1) The Ship and Port Facility (Security) Regulations 2004<sup>(3)</sup> shall be amended as follows.

(2) In regulation 1 (citation and commencement), for paragraph (b), there shall be substituted—  
“(b) on 1st July 2005 for all other purposes.”.

(3) In regulations 6(6), 8(9), 12(2) and 15(1), in paragraph (a), for “level 5 on the standard scale” there shall be substituted “the statutory maximum”.

(4) In regulations 10 and 11—

(a) paragraph (2) shall be omitted;

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(1) [S.I. 2004/706](#), [1993/595](#) and [1994/757](#).

(2) 1972 c. 68.

(3) [S.I. 2004/1495](#).

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*Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.*

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- (b) in paragraph (3), the words “Subject to paragraph 3A,” shall be inserted at the beginning;  
and
- (c) after paragraph (3) there shall be inserted—
  - “(3A) A person who contravenes paragraph (1)(a) is not guilty of an offence unless it is proved that, at the material time, notices stating that the area concerned was a restricted area were posted so as to be readily seen and read by persons entering the area.”.
- (5) In regulation 16(2), for paragraph (b), there shall be substituted—
  - “(b) that the matters stated in the enforcement notice in accordance with regulation 14(1) do not constitute a failure to comply with the requirements specified in regulation 13;”.

Signed by the authority of the Secretary of State for Transport

25th May 2005

*Dr Stephen Ladyman*  
Minister of State  
Department for Transport

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## EXPLANATORY NOTE

*(This note is not part of the Regulations)*

These Regulations amend the Ship and Port Facility (Security) Regulations 2004 (“the 2004 Regulations”) to correct defects in the 2004 Regulations. Accordingly these Regulations are being provided free of charge to all known recipients of the 2004 Regulations.

The 2004 Regulations implemented, so far as was necessary to do so, Regulation (EC) No 725/2004 of the European Parliament and of the Council of 31 March 2004, which introduced and implemented Community measures aimed at enhancing ship and port facility security. The EC Regulation also provided a basis for the harmonised interpretation and implementation and Community monitoring of the special measures to enhance maritime security adopted by the Diplomatic Conference of the International Maritime Organisation (IMO) on 12 December 2002, which amended the International Convention for the Safety of Life at Sea (SOLAS) and established the International Ship and Port Facility Security Code (ISPS). The relevant amendments to the SOLAS Convention are set out in Chapter X1-2 of the Convention.

*Regulation 2(2)* amends regulation 1 of the 2004 Regulations to bring all remaining provisions of the 2004 Regulations into force on 1 July 2005.

*Regulation 2(3)* amends four regulations in the 2004 Regulations, (concerning inspections, detentions, offences and enforcement notices) to provide that the maximum penalty on summary conviction for an offence under those Regulations will be the statutory maximum.

*Regulation 2(4)* inserts a new subparagraph 3A into regulations 10 and 11 to provide that certain conduct in relation to restricted areas on ships or port facilities will not be an offence unless it is proved that, at the material time, notices stating that the area concerned was a restricted area were posted so as to be readily seen and read by persons entering the area.

*Regulation 2(5)* amends regulation 16(2) of the 2004 Regulations by revising the grounds for objecting to an enforcement notice.

Copies of the SOLAS Convention and the ISPS Code may be obtained from the International Maritime Organisation at 4 Albert Embankment, London SE1 7SR.

A Regulatory Impact Assessment has not been produced for this instrument because it has no impact on the costs of business, charities or voluntary bodies.