
STATUTORY INSTRUMENTS

2006 No. 2184

The Merchant Shipping and Fishing Vessels (Lifting Operations and Lifting Equipment) Regulations 2006

PART 5

PENALTIES, OFFENCES, INSPECTIONS AND DETENTIONS

Penalties

18.—(1) Any contravention of regulations 6 to 12 or, except in the case of a worker regulation 16, shall be an offence punishable on summary conviction by a fine not exceeding the statutory maximum or on conviction on indictment, by imprisonment for a term not exceeding two years or a fine or both.

(2) Any contravention of regulation 13, 14(2), (4) or (5) or 15 shall be an offence punishable on summary conviction by a fine not exceeding level 4 on the standard scale.

(3) Any contravention of regulation 14(1) or (3) shall be an offence punishable on summary conviction by a fine not exceeding level 3 on the standard scale.

(4) Any contravention by a worker of regulation 16(1), (5) or 17 shall be an offence punishable on summary conviction by a fine not exceeding level 2 on the standard scale.

Offences by bodies corporate and partnerships

19.—(1) Where a body corporate is guilty of an offence under these Regulations and that offence is proved to have been committed with the consent or connivance of, or to be attributable to any neglect on the part of, any director, manager, secretary or other similar officer of the body corporate or a person who was purporting to act in any such capacity, he as well as the body corporate shall be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

(2) Where the affairs of a body corporate are managed by its members, the preceding paragraph shall apply in relation to the acts and defaults of a member in connection with his functions of management as if he were a director of the body corporate.

(3) Where an offence under these Regulations committed by a Scottish partnership is proved to have been committed with the consent or connivance of, or to be attributable to any neglect on the part of, a partner, that partner as well as the partnership shall be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

Onus of proving what is reasonably practicable

20. In any proceedings for an offence under these Regulations consisting of a failure to comply with a duty or requirement to do something so far as is reasonably practicable, it shall be for the defendant to prove that it was not reasonably practicable to do more than was in fact done to satisfy the duty or requirement.

Inspection and detention of a United Kingdom ship

21.—(1) A relevant inspector may inspect any United Kingdom ship and, if he is satisfied that there has been a failure to comply in relation to that ship with the requirements of these Regulations, may detain the ship until the health and safety of all persons aboard the ship is secured.

(2) The relevant inspector shall not in the exercise of his powers under this regulation detain or delay the ship unreasonably.

Inspection and other measures in respect of ships registered outside the United Kingdom

22.—(1) A relevant inspector may inspect any ship which is not a United Kingdom ship when the ship is in United Kingdom waters and, if satisfied that the ship does not conform to the standards required of United Kingdom ships by these Regulations, may—

- (a) send a report to the government of the country in which the ship is registered, and a copy thereof to the Director General of the International Labour Office; and
- (b) where conditions on board are clearly hazardous to health and safety—
 - (i) take such measures as are necessary to rectify those conditions, or
 - (ii) detain the ship,

when the ship has called at a United Kingdom port in the normal course of business or for operational reasons.

(2) If either of the measures specified in paragraph (1)(b) is taken, the relevant inspector shall forthwith notify the nearest maritime, consular or diplomatic representative of the State whose flag the ship is entitled to fly.

(3) The relevant inspector shall not in the exercise of his powers under this regulation detain the ship unreasonably.

Enforcement of detention

23. Where a ship is liable to be detained under these Regulations, section 284(1) to (5) and (8)(1) of the Act (which relates to the detention of a ship) shall apply as if for the words “this Act”, wherever they appear, there were substituted “the Merchant Shipping and Fishing Vessels (Lifting Operations and Lifting Equipment) Regulations 2006”.

Compensation

24. Sections 96 and 97 of the Act (arbitration and compensation) shall apply in relation to a detention notice or order under these Regulations as they apply to a detention notice under section 95(3) of the Act, and in such application, “relevant inspector” means a person making an inspection under these Regulations.

(1) Section 284 was amended by the Merchant Shipping and Maritime Security Act 1997, Schedule 1, paragraph 5.