
EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations implement Directive 2009/16/EC of the European Parliament and of the Council on port State control (OJNo. L131, 28.05.2009 p.57.). The Directive provides a regime for the enforcement, in respect of shipping using ports in Member States of the European Union and their waters, of international standards for ship safety, pollution prevention and shipboard living and working conditions. The Directive is extended to the EEA.

In addition to the provisions implementing the Directive, the Regulations also provide, in Part 2, for similar rights of appeal and compensation in respect of any ship detained under other specified Regulations and, in Part 3, for checking the familiarity of the master and crew with operational procedures.

Part 1 of the Regulations applies to ships which are not British ships calling at a UK port or anchorage.

The Secretary of State is required to carry out the United Kingdom's share of European Union and Paris MOU inspections (*regulation 4*)

The minimum requirements for an initial inspection and more detailed inspections are set (*regulation 5*) and an expanded inspection regime is applied to specified categories of ships (*regulation 6*). A report of an inspection must be given to the master (*regulation 7*). The qualifications for inspectors are prescribed (*regulation 8*).

A ship's deficiencies must be rectified and, if hazardous to safety, health or the environment will caused the ship to be detained pending rectification (*regulation 9*).

Access to UK ports and anchorages is prohibited to prescribed ships which have been subject to detention, subject to force majeure or other specified circumstances (*regulations 10-13*).

There is provision for rights of appeal and compensation (*regulations 14-16*) and provision for movement of detained ships to repair yards (*regulation 17 and 18*)

Pilots and port authorities are required to report anomalies prejudicing safe navigation (*regulation 19*). Port authorities must also report on ship movements (*regulation 20*).

The Secretary of State must deal with complaints, but not reveal the identity of complainants to the master or owner (*regulation 21*).

The shipowner is liable for costs relating to refusal of access and when a ship is detained (*regulation 22*).

Offences and penalties for the breach of requirements are prescribed by (*regulation 23*).

The rights of appeal and compensation in respect of detained ships under Part 1 are applied in respect of the detention of any ship (including a British ship) which is detained by virtue of specified powers in merchant shipping legislation. (*regulation 24*)

The familiarity of the master and crew of any ship in the United Kingdom, and of any ship registered in the United Kingdom elsewhere, with operational procedures may be checked (*regulation 25*)

The Secretary of State is required to review the operation and effect of these Regulations and publish a report within five years after they come into force and within every five years after that. Following a review it will fall to the Secretary of State to consider whether these Regulations should remain as they are, or be revoked or be amended. A further instrument would be needed to revoke the Regulations or to amend them. (*regulation 26*)

An impact assessment and a transposition table have been prepared and a copy of each has been placed in the Library of each House of Parliament. Copies can be obtained from the Maritime and Coastguard Agency, Spring Place, 105 Commercial Road, Southampton, SO15 1EG. The impact assessment and transposition note are also published with the Explanatory Memorandum alongside the instrument on www.legislation.gov.uk.

Changes to legislation: *There are currently no known outstanding effects for the The Merchant Shipping (Port State Control) Regulations 2011. (See end of Document for details)*

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The Conventions referred to in regulation 3(1) can be obtained from the International Maritime Organisation, 4 Albert Embankment, London SE1.

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