
STATUTORY INSTRUMENTS

2011 No. 2601

The Merchant Shipping (Port State Control) Regulations 2011

PART 1

IMPLEMENTATION OF DIRECTIVE 2009/16/EC

Arbitration

15.—(1) Any question as to whether a matter falling within paragraph (2) constituted a valid basis for the inspector's opinion must, if the master or owner of the ship so requires by a notice given to the inspector within 21 days from the service of the detention notice or refusal of access notice, be referred to a single arbitrator appointed by agreement between the parties for that question to be decided by the arbitrator.

(2) A matter falls within this paragraph if it is specified in relation to a ship in a detention notice or refusal of access notice in pursuance of a power of detention or refusal of access to which this regulation applies in connection with any opinion formed by the inspector.

(3) Where a notice is given by the master or owner of the ship in accordance with paragraph (1), the giving of the notice does not suspend the operation of the detention notice or refusal of access notice.

(4) The arbitrator must have regard to any matter not specified in the detention notice or refusal of access notice which appears to the arbitrator to be relevant as to whether the ship was or was not liable to be detained or served with a refusal of access notice.

(5) Where the arbitrator decides, as respects a matter to which the reference relates, that in all the circumstances the matter did not constitute a valid basis for the inspector's opinion, the arbitrator must—

- (a) cancel the detention notice or refusal of access notice, as the case may be; or
- (b) affirm it with such modifications as the arbitrator may in the circumstances think fit.

(6) In any case other than one described in paragraph (5) the arbitrator must affirm the detention notice or refusal of access notice in its original form.

(7) The arbitrator must include in his decision a finding whether there was or was not a valid basis for the detention of the ship or for the service of a refusal of access notice.

(8) A person is not qualified for appointment as an arbitrator under this regulation unless he is:

- (a) a person holding a certificate of competency as a master mariner or as a marine engineer officer class 1, or a person holding a certificate equivalent to any such certificate;
- (b) a naval architect;
- (c) a person falling within paragraph (9); or
- (d) a person with special experience of shipping matters, of the fishing industry, or of activities carried on in ports.

(9) For the purposes of paragraph (8)(c) a person falls within this subsection if that person—

- (a) satisfies the judicial-appointment eligibility condition on a 7 year basis within the meaning of section 50 of the Tribunals, Courts and Enforcement Act 2007^{M1};
- (b) is an advocate or solicitor in Scotland of at least 7 years' standing; or
- (c) is a member of the bar of Northern Ireland or solicitor of the Court of Judicature of Northern Ireland of at least 7 years' standing.
- (10) [^{F1}Subject to paragraph (10A),] in connection with functions under this regulation an arbitrator has the powers conferred on an inspector by section 259 of the Act.
- [^{F2}(10A) In connection with functions under this regulation in respect of a detention under—
- (a) Article 11(3) or 12(5) of the EU Ship Recycling Regulation; or
- (b) regulation 8 of the Ship Recycling (Requirements in relation to Hazardous Materials on Ships) (Amendment etc.) Regulations 2018 (“the 2018 Regulations”),
- the arbitrator has the powers conferred on an inspector by regulation 12 of the 2018 Regulations.]
- (11) In the application of this regulation to Scotland any reference to an arbitrator is to be construed as a reference to an arbiter, and the reference in paragraph (1) above to a single arbitrator appointed by agreement between the parties is to be construed as a reference to a single arbiter so appointed or, in default of agreement, appointed by the sheriff.

Textual Amendments

- F1** Words in [reg. 15\(10\)](#) inserted (31.12.2018) by [The Ship Recycling \(Requirements in relation to Hazardous Materials on Ships\) \(Amendment etc.\) Regulations 2018 \(S.I. 2018/1122\)](#), regs. 1, [7\(7\)\(a\)](#)
- F2** [Reg. 15\(10A\)](#) inserted (31.12.2018) by [The Ship Recycling \(Requirements in relation to Hazardous Materials on Ships\) \(Amendment etc.\) Regulations 2018 \(S.I. 2018/1122\)](#), regs. 1, [7\(7\)\(b\)](#)

Modifications etc. (not altering text)

- C1** [Reg. 15](#) applied (9.6.2015) by [The Merchant Shipping \(Standards of Training, Certification and Watchkeeping\) Regulations 2015 \(S.I. 2015/782\)](#), regs. 1, [54\(3\)](#)
- C2** [Reg. 15](#) applied (21.11.2016) by [The Merchant Shipping and Fishing Vessels \(Health and Safety at Work\) \(Electromagnetic Fields\) Regulations 2016 \(S.I. 2016/1026\)](#), regs. 1, [17](#) (with reg. 4)
- C3** [Reg. 15](#) applied (23.10.2017) by [The Fishing Vessels \(Codes of Practice\) Regulations 2017 \(S.I. 2017/943\)](#), regs. 1, [16](#) (with reg. 3)
- C4** [Reg. 15](#) applied (with modifications) (12.3.2018) by [The Merchant Shipping \(Prevention of Pollution from Noxious Liquid Substances in Bulk\) Regulations 2018 \(S.I. 2018/68\)](#), regs. 1(1), [37](#) (with reg. 5)
- C5** [Reg. 15](#) applied (with modifications) (1.3.2019) by [The Merchant Shipping \(Prevention of Oil Pollution\) Regulations 2019 \(S.I. 2019/42\)](#), regs. 1(1), [41\(1\)](#) (with regs. 2, 5)
- C6** [Reg. 15](#) applied (with modifications) (22.7.2020) by [The Merchant Shipping \(Prevention of Pollution by Garbage from Ships\) Regulations 2020 \(S.I. 2020/621\)](#), regs. 1(2), [20](#)
- C7** [Reg. 15](#) applied (with modifications) (22.7.2020) by [The Merchant Shipping \(Prevention of Pollution by Sewage from Ships\) Regulations 2020 \(S.I. 2020/620\)](#), regs. 1(2), [29](#)
- C8** [Reg. 15](#) applied (with modifications) (29.7.2022) by [The Merchant Shipping \(Control and Management of Ships' Ballast Water and Sediments\) Regulations 2022 \(S.I. 2022/737\)](#), regs. 1(1), [43](#) (with reg. 4)

Marginal Citations

- M1** [2007 c.15.](#)

Changes to legislation:

There are currently no known outstanding effects for the The Merchant Shipping (Port State Control) Regulations 2011, Section 15.