
STATUTORY INSTRUMENTS

2018 No. 1122

The Ship Recycling (Requirements in relation to Hazardous Materials on Ships) (Amendment etc.) Regulations 2018

Articles 11 and 12: application of Port State Control provisions

- 7.—(1) The Merchant Shipping (Port State Control) Regulations 2011^{M1} are amended as follows.
- (2) In regulation 2 (interpretation of Part 1), in paragraph (1) —
- (a) in the definition of “the Directive”, after “control”, insert “ as in force on the date the Ship Recycling (Requirements in relation to Hazardous Materials on Ships) (Amendment etc.) Regulations 2018 come into force ”;
 - (b) after the definition of “the Directive” insert—
““the EU Ship Recycling Regulation” means Regulation (EU) No 1257/2013 of the European Parliament and of the Council on ship recycling^{M2}.”;
 - (c) for the definition of “initial inspection” substitute—
““initial inspection” means a visit on board a ship by an inspector in order to check compliance with—
 - (a) the relevant Conventions, including at least the checks set out in Article 13.1 of the Directive and on or after 30th June 2019 compliance with Article 18 of Regulation (EU) 2015/757; and
 - (b) a requirement under the EU Ship Recycling Regulation to have on board an inventory certificate or ready for recycling certificate or a statement of compliance (in each case within the meaning given by that Regulation).”.
- (3) In regulation 5 (initial inspections and more detailed inspections), after paragraph (4) insert—
“(5) The power in Article 11(2) of the EU Ship Recycling Regulation to carry out a detailed inspection in the circumstances mentioned in that provision—
 - (a) is exercisable by an inspector by means of carrying out a more detailed inspection under these Regulations; and
 - (b) is to be treated as applying to ships to which Article 12 of that Regulation applies (as well as to ships to which Article 11 applies).
(6) In its application to ships to which Article 12 applies, the reference in Article 11(2) of that Regulation to a valid certificate is to be treated as a reference to the ship's statement of compliance (within the meaning of that Regulation).”.
- (4) In regulation 6 (expanded inspection of certain ships), at the end of paragraph (3), insert “ or in the circumstances mentioned in Article 11(2) of the EU Ship Recycling Regulation (including as that provision is applied by regulation 5(5)) ”.
- (5) In regulation 9 (rectification and detention)—
 - (a) in paragraph (1), after “Conventions” insert “ or the EU Ship Recycling Regulation ”;
 - (b) in paragraph (2), after “Where such deficiencies” insert “ fall to be rectified in accordance with the Conventions and ”;

- (c) after paragraph (2) insert—
- “(2A) Paragraph (2B) applies where deficiencies mentioned in paragraph (1) fall to be rectified in accordance with the EU Ship Recycling Regulation and the inspector is of the opinion that the ship may be detained under Article 11(3) or 12(5) of that Regulation.
- (2B) If the inspector decides to detain the ship, the inspector must do so by serving a notice (“a detention notice”) on the master of the ship.
- (2C) A detention notice issued under paragraph (2B) must—
- (a) set out the grounds for detention; and
- (b) the steps that must be taken in order for the ship to be released.”;
- (d) in paragraph (3), after “(2)”, insert “ or under paragraph (2B) ”;
- (e) in paragraph (5), after “detained” insert “ in accordance with paragraph (2), ”;
- (f) in paragraph (8), after “Conventions” insert “ or the EU Ship Recycling Regulation ”;
- (g) in paragraph (12), after “control” insert “ or the provisions of Article 11(3) or 12(5) of the EU Ship Recycling Regulation ”.
- (6) For regulation 14 (rights of appeal and compensation), for paragraph (1) substitute—
- “(1) Regulations 15 and 16 apply in relation to the exercise of the power of detention or refusal of access in—
- (a) any Convention enactment except the Act and the Merchant Shipping (Survey and Certification) Regulations 1995; or
- (b) Article 11(3) or 12(5) of the EU Ship Recycling Regulation.”.
- (7) In regulation 15 (arbitration)—
- (a) at the beginning of paragraph (10), insert “ Subject to paragraph (10A), ”; and
- (b) after paragraph (10) insert—
- “(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.”.
- (8) In regulation 17 (prohibition on detained ships requiring repair from entering port), in paragraph (1), after “Conventions”, insert “ and the EU Ship Recycling Regulation ”.
- (9) In regulation 22 (costs), in paragraph (2)—
- (a) after “enactment”, insert “ or the EU Ship Recycling Regulation ”;
- (b) after the second and third use of “Convention”, insert “ or that Regulation ”.
- (10) In regulation 22(3)—
- (a) for “or a Convention enactment” substitute “ , a Convention enactment or the EU Ship Recycling Regulation ”;
- (b) omit the words from “any fees payable” to “from it” and insert “ any appropriate fee payable ”.
- (11) At the end of regulation 22 insert—
- “(4) In paragraph (3), “appropriate fee” means—

- (a) in the case of a detention made pursuant to this Part or a Convention enactment, a fee payable under the Merchant Shipping (Fees) Regulations 2018 in respect of an inspection leading to, or arising from, the detention;
 - (b) in the case of a detention made pursuant to the EU Ship Recycling Regulation, a fee payable under regulation 6 of the Ship Recycling (Requirements in relation to Hazardous Materials on Ships) (Amendment etc.) Regulations 2018 in connection with the carrying out of an Article 8 survey leading to, or arising from, the detention.
- (5) In paragraph (4), “Article 8 survey” has the same meaning as in regulation 2(1) of the Ship Recycling (Requirements in relation to Hazardous Materials on Ships) (Amendment etc.) Regulations 2018.”
- (12) In regulation 23 (offences), after paragraph (6), insert—
- “(6A) A person commits an offence if that person fails to comply with a requirement of a detention notice issued under regulation 9(2B).
- (6B) A person who is guilty of an offence under paragraph (6A) is liable —
- (a) on summary conviction—
 - (i) in England and Wales, to a fine; or
 - (ii) in Scotland or Northern Ireland, to a fine not exceeding the statutory maximum; or
 - (b) on conviction on indictment, to a fine or to imprisonment for a term not exceeding two years or to both.”
- (13) In regulation 24 (rights of appeal and compensation in respect of detained ships), in paragraph (1)—
- (a) omit the word “or” after sub-paragraph (b); and
 - (b) at the end of sub-paragraph (c) insert—
 - “; or
 - (d) regulation 8 of the Ship Recycling (Requirements in relation to Hazardous Materials on Ships) (Amendment etc.) Regulations 2018”.

Marginal Citations

M1 [S.I. 2011/2601](#); [regulation 2](#) was amended by regulation 11 of [S.I. 2017/825](#).

M2 OJ No L 330, 10.12.2013, p 1.

Changes to legislation:

There are currently no known outstanding effects for the The Ship Recycling (Requirements in relation to Hazardous Materials on Ships) (Amendment etc.) Regulations 2018, Section 7.