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STATUTORY INSTRUMENTS

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**2022 No. 1169**

**The Merchant Shipping (Nuclear Ships) Regulations 2022**

**PART 6 U.K.**

**Control and enforcement**

**Offences and penalties U.K.**

**31.**—(1) Any contravention of—

- (a) regulation 7(1) (requirement for safety assessment);
- (b) regulation 8 (design and construction of nuclear ships);
- (c) regulation 9 (suitability of reactor installation for service on board a ship);
- (d) regulation 10 (approval of reactor installation);
- (e) regulation 11 (radiation safety);
- (f) regulation 12, in so far as this relates to a contravention of paragraph 7.1.1 or 7.1.4 in Chapter 7 of the Nuclear Code (general operating requirements for nuclear ships);
- (g) regulation 13(1)(a) or (b), (2)(a) or (b), [F1(3)] or (5) (safety assessment – operational requirements);
- (h) regulation 14(1), (3)(a) or (b), (4) or (5)(a) or (b) (operating manual);
- (i) regulation 15(1), (3)(a) or (b), (4), (5) or (6) (additional operating documentation);
- (j) regulation 16 (emergency operation procedures);
- (k) regulation 17 (maintenance and repair);
- (l) regulation 18(1) (manning and training);
- (m) regulation 20(1)(a), (b) or (c), (2), (3), (4), (6), (7), [F2(8A)], (9) or (11)(a), (b), (c) or (d) (surveys of United Kingdom nuclear ships);
- (n) regulation 21(3) (requirement to hold on board a Nuclear Ship Safety Certificate);
- (o) regulation 23(1) (responsibilities of owner and master);
- (p) regulation 27 (prohibition on proceeding on any voyage without the appropriate certificate);
- (q) regulation 28 (quality assurance programme); or
- (r) regulation 29 (decommissioning of nuclear ships),

is an offence by the owner and master of a nuclear ship in respect of each case of non-compliance.

(2) Any contravention of regulation 12, in so far as this relates to a contravention of paragraph 7.1.3 in Chapter 7 of the Nuclear Code (general operating requirements for nuclear ships), is an offence by the Company.

(3) Any contravention of regulation 30(a) or (b) (loss of nuclear ships) is an offence by the master in respect of each case of non-compliance.

- (4) An offence under paragraph (1), (2) or (3) is punishable—
- (a) on summary conviction—
    - (i) in England and Wales by a fine; or
    - (ii) in Scotland or Northern Ireland by a fine not exceeding the statutory maximum; or
  - (b) on conviction on indictment by imprisonment for a term not exceeding two years, or a fine, or both.
- (5) Any contravention of—
- (a) regulation 13(2)(c) (failure to have safety assessment readily available for examination);
  - (b) regulation 14(5)(c) (failure to have operating manual readily available for examination);
  - (c) regulation 15(3)(c) (failure to have additional operating documentation readily available for examination);
  - (d) regulation 20(11)(e) (failure to have results of surveys and tests readily available for examination); or
  - (e) regulation 21(4) (failure to have nuclear ship safety certificate readily available for examination),
- is an offence by the owner and master of a nuclear ship.
- (6) Any contravention of regulation 25(3) (falsification of certificate etc.) is an offence by the person in question.
- (7) An offence under paragraph (5) or (6) is punishable—
- (a) on summary conviction—
    - (i) in England and Wales by a fine; or
    - (ii) in Scotland or Northern Ireland by a fine not exceeding the statutory maximum; or
  - (b) on conviction on indictment by imprisonment for a term not exceeding six months, or a fine, or both.
- (8) A person who contravenes regulation 18(12)(a), (b), (c) or (d) (providing training without approval etc.) is guilty of an offence.
- (9) An offence under paragraph (8) is punishable—
- (a) on summary conviction—
    - (i) in England and Wales by a fine; or
    - (ii) in Scotland or Northern Ireland by a fine not exceeding the statutory maximum; or
  - (b) on conviction on indictment by a fine.
- (10) It is a defence for a person charged with an offence under this regulation to prove that the person charged took all reasonable steps to avoid the commission of the offence.
- (11) For the purposes of paragraph (2), “Company” has the meaning given to it in regulation 1 of Chapter IX in the Annex to the Convention (International Safety Management (ISM) Code)<sup>(1)</sup>.

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(1) Chapter IX was adopted by Resolution 1 of the 1994 Conference of the Contracting Governments to the International Convention for the Safety of Life at Sea, 1974. Resolution 1 can be obtained from the IMO of 4 Albert Embankment, London SE1 7SR or from the Maritime and Coastguard Agency (MCA) of Spring Place, 105 Commercial Road, Southampton, SO15 1EG (telephone 020 3817 2000 and email [infoline@mca.gov.uk](mailto:infoline@mca.gov.uk)). The International Safety Management (ISM) Code (“the ISM Code”) was adopted by the IMO in Resolution A.741(18) and made mandatory by regulation 3 of Chapter IX. The ISM Code was amended by IMO Resolutions MSC.104(73) (Cm 8063), MSC.179(79), MSC.195(80), MSC.273(85) and MSC.353(92).

#### Textual Amendments

- F1** Word in [reg. 31\(1\)\(g\)](#) inserted (29.3.2023) by [The Merchant Shipping \(Cargo and Passenger Ship Construction and Miscellaneous Amendments\) Regulations 2023 \(S.I. 2023/246\)](#), regs. 1(1), **22(4)(a)**
- F2** Word in [reg. 31\(1\)\(m\)](#) substituted (29.3.2023) by [The Merchant Shipping \(Cargo and Passenger Ship Construction and Miscellaneous Amendments\) Regulations 2023 \(S.I. 2023/246\)](#), regs. 1(1), **22(4)(b)**

#### Commencement Information

- I1** Reg. 31 in force at 8.12.2022, see [reg. 1\(1\)](#)

### Special control **U.K.**

**32.**—(1) Nuclear ships are subject to the control of officers authorised by the Secretary of State before entering a United Kingdom port and when in a United Kingdom port for the purposes referred to in paragraph (2).

- (2) The officers referred to in paragraph (1) may exercise such control in order to verify that—
- (a) there is on board a nuclear ship a valid Nuclear Ship Safety Certificate, or an equivalent valid certificate where the ship flies the flag of a State which is not a Convention country;
  - (b) the condition of the ship and its equipment correspond substantially with the particulars shown on the certificate;
  - (c) the requirements of regulation 23 (responsibilities of owner and master) are being complied with; and
  - (d) there are no unreasonable radiation or other hazards that have occurred, or may occur, at sea or in port, to the crew, passengers or public, or to the waterways or food or water resources.

#### Commencement Information

- I2** Reg. 32 in force at 8.12.2022, see [reg. 1\(1\)](#)

### Detention **U.K.**

**33.**—(1) For the purposes of this regulation, any reference to “the Act” is a reference to the Merchant Shipping Act 1995.

(2) Any nuclear ship which does not comply with the requirements of these Regulations, Chapter I, Chapter VIII or the Nuclear Code applicable to that ship, may be detained.

(3) Section 284 of the Act(2) applies where a nuclear ship is liable to be detained under this regulation as if—

- (a) references to detention of a ship under the Act were references to detention of the ship in question under this regulation; and
- (b) subsection (7) were omitted.

(4) Where a nuclear ship is liable to be detained under this regulation, the person detaining the ship must serve on the master a detention notice which—

- (a) states the grounds for the detention; and

(2) Section 284 was amended by Schedule 1 to the Merchant Shipping and Maritime Security Act 1997 (c. 28) and S.I. 2015/664.

(b) requires the terms of the notice to be complied with until the ship is released by any person mentioned in section 284(1) of the Act.

(5) Subject to paragraph (6), section 96 (references of detention notices to arbitration)(3) and section 97 (compensation in connection with invalid detention of a ship) of the Act apply in relation to a detention notice issued pursuant to this regulation as they apply in relation to detention notices issued pursuant to section 95 (power to detain dangerously unsafe ship).

(6) For the purposes of paragraph (5)—

(a) section 96 of the Act applies as if—

(i) subsection (3) were omitted;

(ii) the words “as a dangerously unsafe ship” in subsection (5) were omitted;

(iii) subsection (11) were omitted; and

(b) sections 96 and 97 of the Act apply as if “the relevant inspector” means a person issuing the detention notice pursuant to this regulation.

(7) Subject to paragraph (8), where a non-United Kingdom nuclear ship is detained, the Secretary of State must immediately inform the ship’s flag administration in writing.

(8) If it is not possible to inform the nuclear ship’s flag administration in accordance with paragraph (7), the Secretary of State must inform the Consul of the State of the flag administration, or in the absence of a Consul, the nearest diplomatic representative of the State of the flag administration.

#### Commencement Information

**I3** Reg. 33 in force at 8.12.2022, see [reg. 1\(1\)](#)

### Review of the Regulations **U.K.**

**34.**—(1) The Secretary of State must from time to time—

(a) carry out a review of the regulatory provision contained in these Regulations; and

(b) publish a report setting out the conclusions of the review.

(2) The first report must be published before 8th December 2027.

(3) Subsequent reports must be published at intervals not exceeding five years.

(4) Section 30(3) of the Small Business, Enterprise and Employment Act 2015(4) requires that a review carried out under this regulation must, so far as is reasonable, have regard to how the obligations under the Convention are implemented in other countries which are subject to those obligations.

(5) Section 30(4) of the Small Business, Enterprise and Employment Act 2015 requires that a report published under this regulation must, in particular—

(a) set out the objectives intended to be achieved by the regulatory provision referred to in paragraph (1)(a);

(b) assess the extent to which those objectives are achieved;

(c) assess whether those objectives remain appropriate; and

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(3) Section 96(7) was amended by Part 1 of Schedule 10 to the Tribunals, Courts and Enforcement Act 2007 (c. 15) and by Schedule 11 to the Constitutional Reform Act 2005 (c. 4). Section 96(10) was repealed by Schedule 4 to the Arbitration Act 1996 (c. 23).

(4) 2015 c. 26. Section 30(3) was amended by section 19 of the Enterprise Act 2016 (c. 12) and Schedule 8 to the European Union (Withdrawal) Act 2018 (c. 16).

- (d) if those objectives remain appropriate, assess the extent to which they could be achieved in another way which involves less onerous regulatory provision.
- (6) In this regulation, “regulatory provision” has the same meaning as in sections 28 to 32 of the Small Business, Enterprise and Employment Act 2015 (see section 32 of that Act).

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**Commencement Information**

**I4** Reg. 34 in force at 8.12.2022, see [reg. 1\(1\)](#)

**Changes to legislation:**

There are currently no known outstanding effects for the The Merchant Shipping (Nuclear Ships) Regulations 2022, PART 6.