



Merchant Shipping Act 1979

1979 CHAPTER 39

Discipline

23 Breaches by seamen of codes of conduct and local industrial agreements

- (1) For the purpose of maintaining discipline on board ships registered in the United Kingdom the Secretary of State may by regulations make provision—
- (a) for the hearing on shore in the United Kingdom, by a body established or approved by the Secretary of State in pursuance of the regulations, of a complaint by the master or owner of a ship registered in the United Kingdom, other than a fishing vessel, alleging that during a period when a person (hereafter in this subsection referred to as " the seaman ") was employed on board the ship he contravened, either on or off the ship _ and in the United Kingdom or elsewhere, a provision of a code of conduct approved by the Secretary of State for the purposes of this section;
 - (b) for enabling the body to dismiss the complaint if it finds the allegation not proved and, if it finds the allegation proved, to warn or reprimand the seaman or to recommend to the Secretary of State that the seaman shall, either for a period specified in the recommendation or permanently, cease to be entitled to a discharge book in pursuance of section 71 of the Merchant Shipping Act 1970 and shall be required to surrender any such book which has been issued to him;
 - (c) for enabling the seaman to appeal against such a recommendation to another body established or approved as aforesaid and for enabling the body to confirm or cancel the recommendation or, in the case of a recommendation that the seaman shall cease to be entitled to a discharge book permanently or for a particular period, to substitute for it a recommendation that he shall cease to be so entitled, instead of permanently, for a period specified in the substituted recommendation or, instead of for the particular period, for a shorter period so specified ;
 - (d) for securing that a recommendation in pursuance of regulations made by virtue of paragraph (b) above that the seaman shall permanently cease to be entitled to a discharge book is not submitted to the Secretary of State unless it has been confirmed, either on appeal or otherwise, by a body which is or was authorised

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by regulations made by virtue of the preceding paragraph to entertain an appeal against the recommendation ;

- (e) for the establishment or approval for the purposes of this section of such number of bodies as the Secretary of State thinks fit and with respect to the composition, jurisdiction and procedure of any body established or approved for those purposes ;
- (f) for the payment out of money provided by Parliament of such remuneration and allowances as the Secretary of State may with the consent of the Minister for the Civil Service determine to any member of a body established by the Secretary of State in pursuance of the regulations ;

and regulations made by virtue of this subsection may make different provision for different circumstances and may contain such incidental and supplemental provisions as the Secretary of State considers appropriate.

- (2) In relation to fishing vessels registered in the United Kingdom the preceding subsection shall have effect with the substitution for paragraph (a) of the following paragraph—

- (a) for the hearing on shore in the United Kingdom, by a body established or approved by the Secretary of State in pursuance of the regulations, of a complaint by the master or owner of a fishing vessel registered in the United Kingdom alleging that during a period when a person (hereafter in this subsection referred to as " the seaman ") was employed on board the vessel, he contravened, either on or off the vessel and in the United Kingdom or elsewhere, a local industrial agreement relating to his employment in the vessel and for requiring the body to have regard to the agreement in determining whether the allegation is proved ;

and regulations made by virtue of the preceding subsection may include provision authorising persons to determine, for the purposes of that paragraph, what agreements are or were local industrial agreements and which local industrial agreement relates or related to a person's employment in a particular vessel.

- (3) Without prejudice to the generality of subsection (1) of this section, regulations made by virtue of that subsection may include provision for any proceedings in pursuance of the regulations to take place notwithstanding the absence of the seaman to whom the proceedings relate; and nothing in regulations made by virtue of that subsection or done in pursuance of regulations so made shall be construed as affecting any power to institute, prosecute, entertain or determine proceedings (including criminal proceedings) under any other enactment or at common law.
- (4) When the Secretary of State proposes to make any regulations in pursuance of subsection (1) of this section it shall be his duty, before he makes the regulations, to consult about the proposal such organisations in the United Kingdom as he considers are representative of persons likely to be affected by the regulations.
- (5) The power conferred by section 71 of the Merchant Shipping Act 1970 to make regulations relating to discharge books—
 - (a) shall include power to provide for a person to cease to be entitled to a discharge book in consequence of a recommendation made by virtue of this section;
 - (b) includes power to provide for the re-issue of discharge books which have been surrendered in consequence of such a recommendation.
- (6) A person who, in the United Kingdom or elsewhere—

- (a) obtains employment as a seaman on board a ship registered in the United Kingdom and does so when he is disentitled to a discharge book by virtue of regulations made by virtue of paragraph (a) of the preceding subsection; or
- (b) employs as such a seaman a person who he knows or has reason to suspect is disentitled as aforesaid,

shall be guilty of an offence and liable on summary conviction to a fine not exceeding £1,000 or, on conviction on indictment, to imprisonment for a term not exceeding two years or a fine or both.

- (7) Sections 34 to 38 of the Merchant Shipping Act 1970 and paragraph 2 of Schedule 2 to that Act (which relate to discipline on board ships registered in the United Kingdom) shall cease to have effect.

24 Determination of amount of deductions from seamen's wages

The power to make regulations conferred by section 9 of the Merchant Shipping Act 1970 (which among other things relates to deductions from the wages of a seaman) shall include power to provide that the amount of a deduction of a description specified in the regulations from wages in respect of employment in a fishing vessel is to be determined by a body established or approved by the Secretary of State in pursuance of regulations made by virtue of the preceding section.

25 Unauthorised liquor on fishing vessels

- (1) A person who, in the United Kingdom or elsewhere—
- (a) takes any unauthorised liquor on board a fishing vessel registered in the United Kingdom; or
 - (b) has any unauthorised liquor in his possession on board such a vessel; or
 - (c) permits another person to take on board such a vessel, or to have in his possession on board such a vessel, any unauthorised liquor; or
 - (d) wilfully obstructs another person in the exercise of powers conferred on the other person by subsection (3) of this section,

shall, subject to the following subsection, be guilty of an offence and liable on summary conviction to a fine not exceeding £1,000 or, on conviction on indictment, to imprisonment for a term not exceeding two years or a fine or both.

- (2) It shall be a defence in proceedings for an offence under paragraph (a) or (b) of the preceding subsection to prove—
- (a) that the accused believed that the liquor in question was not unauthorised liquor in relation to the vessel in question and that he had reasonable grounds for the belief; or
 - (b) that the accused did not know that the liquor in question was in his possession;
- and it shall be a defence in proceedings for an offence under paragraph (c) of the preceding subsection to prove as mentioned in paragraph (a) of this subsection.
- (3) If an authorised person has reason to believe that an offence under paragraph (a) or (b) of subsection (1) of this section has been committed by another person in connection with a fishing vessel, the authorised person—
- (a) may go on board the vessel and search it and any property on it and may, if the other person is on board the vessel, search him there in an authorised manner; and

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- (b) may take possession of any liquor which he finds on the vessel and has reason to believe is unauthorised liquor and may detain the liquor for the period needed to ensure that the liquor is available as evidence in proceedings for the offence.

(4) In this section—

" an authorised manner " means a manner authorised by regulations made by the Secretary of State ;

" authorised person ", in relation to a vessel, means a mercantile marine superintendent, a proper officer as defined by section 97(1) of the Merchant Shipping Act 1970, a person appointed in pursuance of section 76(1)(c) of that Act (which relates to inspectors), the master of the vessel in question, the owner of the vessel and any person instructed by the said master or owner to prevent the commission of offences under subsection (1) of this section in relation to the vessel;

" liquor " means spirits, wine, beer, cider, perry and any other fermented, distilled or spirituous liquor ; and

" unauthorised liquor " means, in relation to a vessel, liquor as to which permission to take it on board the vessel has been given neither by the master nor the owner of the vessel nor by a person authorised by the said owner to give such permission.

(5) Any reference in the preceding subsection to the owner of a vessel shall be construed—

- (a) as excluding any member of the crew of the vessel; and
- (b) subject to the preceding paragraph, as a reference to the person or all the persons who, in the certificate of registry of the vessel, is or are stated to be the registered owner or owners of the vessel.