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STATUTORY INSTRUMENTS

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**1997 No. 2962**

**The Merchant Shipping and Fishing Vessels  
(Health and Safety at Work) Regulations 1997**

**Part VI**

**Prohibitions, penalties, inspections and detentions**

**Prohibition on levy**

**22.** No charge in respect of anything done or provided in pursuance of any specific requirement of these Regulations shall be levied or permitted to be levied on any worker.

**Duty not to interfere with or misuse certain things**

**23.** No person shall intentionally or recklessly interfere with or misuse anything provided in the interests of health and safety aboard a United Kingdom ship in pursuance of these Regulations or the Act or any regulation or rule made thereunder.

**Penalties**

**24.—(1)** Any contravention of regulation 5 of these Regulations shall be an offence punishable on summary conviction by a fine not exceeding the statutory maximum or, on conviction on indictment, by imprisonment for a term not exceeding two years or a fine, or both.

(2) Any contravention of regulation 14 shall be guilty of an offence punishable on summary conviction of a fine not exceeding level 5 on the standard scale.

(3) Any contravention of regulation 6, 7, 16, 17, 20 or 21 of these Regulations shall be an offence punishable on summary conviction by a fine not exceeding level 4 on the standard scale.

(4) Any contravention of regulation 8, 9, 11, 12, 13, 22 or 23 of these Regulations shall be an offence punishable on summary conviction by a fine not exceeding level 3 on the standard scale.

(a) (5) (a) Any Company which—

(i) fails to appoint a safety officer in accordance with regulation 15, or

(ii) fails to carry out any of the duties specified in regulation 19,

shall be guilty of an offence punishable on summary conviction of a fine not exceeding level 5 on the standard scale.

(b) Any master who fails to carry out any of the duties specified in regulation 19 shall be guilty of an offence punishable on summary conviction by a fine not exceeding level 3 on the standard scale.

**Offences by body corporate**

**25.—(1)** Where a body corporate is guilty of an offence under any of these Regulations and that offence is proved to have been committed with the consent or connivance of, or to have been

attributable to any neglect on the part of, any director, manager, secretary or other similar officer of the body corporate or a person who was purporting to act in any such capacity, he as well as the body corporate shall be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

(2) Where the affairs of a body corporate are managed by its members, the preceding paragraph shall apply in relation to the acts and defaults of a member in connection with his functions of management as if he were a director of the body corporate.

### **Onus of proving what is reasonably practicable**

**26.** In any proceedings for an offence under any of these Regulations consisting of a failure to comply with a duty or requirement to do something so far as is reasonably practicable, it shall be for the defendant to prove that it was not reasonably practicable to do more than was in fact done to satisfy the duty or requirement.

### **Inspection and detention of a United Kingdom Ship**

**27.** A relevant inspector may inspect any United Kingdom ship and if he is satisfied that there has been a failure to comply in relation to that ship with the requirements of these Regulations may detain the ship until the health and safety of all workers and other persons aboard ship is secured, but shall not in the exercise of these powers detain or delay the ship unreasonably.

### **Inspection and detention and other measures in respect of ships registered outside the United Kingdom**

**28.—(1)** A relevant inspector may inspect any ship which is not a United Kingdom ship when the ship is in a United Kingdom port, and if satisfied that the ship does not conform to the standards required of United Kingdom ships by these Regulations, may—

- (a) send a report to the government of the country in which the ship is registered, and a copy thereof to the Director General of the International Labour Office; and
- (b) where conditions on board are clearly hazardous to health and safety—
  - (i) take such measures as are necessary to rectify those conditions, or
  - (ii) detain the ship,

provided that the measures specified in sub-paragraph (a) and (b) may be taken only when the ship has called at a United Kingdom port in the normal course of business for operational reasons.

(2) If either of the measures specified in paragraphs (1)(b) are taken, the relevant inspector shall forthwith notify the nearest maritime, consular or diplomatic representative of the State whose flag the ship is entitled to fly.

(3) The relevant inspector shall not in exercise of his power under this regulation detain or delay the ship unreasonably.

### **Enforcement of detention**

**29.** Where a ship is liable to be detained under these Regulations, section 284(1) to (5) and (8) of the Act (which relates to the detention of the ship) shall apply as if for the words “this Act”, wherever they appear, there were substituted “the Merchant Shipping and Fishing Vessels (Health and Safety at Work) Regulations 1997”.

## **Compensation**

**30.** Sections 96 and 97 of the Act (Arbitration and Compensation) shall apply in relation to a detention notice or order under these Regulations as they apply to a detention notice under section 95(3) of the Act, and in such application, “relevant inspector” means a person making an inspection under these Regulations.