

259.—(1) The powers conferred by this section are conferred in relation to—

Powers of inspectors in relation to premises and ships.

- (a) any premises in the United Kingdom; or
- (b) any United Kingdom ship wherever it may be and any other ship which is present in the United Kingdom or in United Kingdom waters;

and are available to any Departmental inspector, or any inspector appointed under section 256(6), for the purpose of performing his functions.

(2) Such an inspector—

- (a) may at any reasonable time (or, in a situation which in his opinion is or may be dangerous, at any time)—
 - (i) enter any premises, or
 - (ii) board any ship,if he has reason to believe that it is necessary for him to do so;
- (b) may, on entering any premises by virtue of paragraph (a) above or on boarding a ship by virtue of that paragraph, take with him any other person authorised for the purpose by the Secretary of State and any equipment or materials he requires;
- (c) may make such examination and investigation as he considers necessary;
- (d) may give a direction requiring that the premises or ship or any part of the premises or ship or any thing in the premises or ship or such a part shall be left undisturbed (whether generally or in particular respects) for so long as is reasonably necessary for the purposes of any examination or investigation under paragraph (c) above;
- (e) may take such measurements and photographs and make such recordings as he considers necessary for the purpose of any examination or investigation under paragraph (c) above;
- (f) may take samples of any articles or substances found in the premises or ship and of the atmosphere in or in the vicinity of the premises or ship;
- (g) may, in the case of any article or substance which he finds in the premises or ship and which appears to him to have caused or to be likely to cause danger to health or safety, cause it to be dismantled or subjected to any process or test (but not so as to damage or destroy it unless that is in the circumstances necessary);
- (h) may, in the case of any such article or substance as is mentioned in paragraph (g) above, take possession of it and detain it for so long as is necessary for all or any of the following purposes, namely—
 - (i) to examine it and do to it anything which he has power to do under that paragraph,
 - (ii) to ensure that it is not tampered with before his examination of it is completed,
 - (iii) to ensure that it is available for use as evidence in any proceedings for an offence under this Act or any instrument made under it;
- (i) may require any person who he has reasonable cause to believe is able to give any information relevant to any examination or investigation under paragraph (c) above—
 - (i) to attend at a place and time specified by the inspector, and

Merchant Shipping Act 1995

(ii) to answer (in the absence of persons other than any persons whom the inspector may allow to be present and a person nominated to be present by the person on whom the requirement is imposed) such questions as the inspector thinks fit to ask, and

(iii) to sign a declaration of the truth of his answers;

(j) may require the production of, and inspect and take copies of or of any entry in,—

(i) any books or documents which by virtue of any provision of this Act are required to be kept; and

(ii) any other books or documents which he considers it necessary for him to see for the purposes of any examination or investigation under paragraph (c) above;

(k) may require any person to afford him such facilities and assistance with respect to any matters or things within that person's control or in relation to which that person has responsibilities as the inspector considers are necessary to enable him to exercise any of the powers conferred on him by this subsection.

(3) The powers conferred by subsection (2) above to require the production of any document and copy it include, in relation to oil record books required to be carried under section 142, power to require the master to certify the copy as a true copy.

(4) The powers conferred by subsection (2) above to inspect premises shall also be exercisable, for the purpose of Chapter II of Part VI, in relation to any apparatus used for transferring oil.

(5) The powers of entry and inspection of premises conferred by subsections (2) and (4) above for the purposes of Chapter II of Part VI shall not be exercisable by Departmental inspectors (or surveyors of ships in their capacity as Departmental inspectors) in relation to places on land in Northern Ireland and apparatus located in Northern Ireland otherwise than on board ships; but persons appointed by the Department of the Environment for Northern Ireland shall have the like powers; and those subsections shall have effect accordingly in relation to persons so appointed.

(6) The powers conferred by subsection (2)(a), (c) and (j) above shall also be exercisable, in relation to a ship in a harbour in the United Kingdom, by the harbour master or other persons appointed by the Secretary of State for the purpose, for the purpose of ascertaining the circumstances relating to an alleged discharge of oil or a mixture containing oil from the ship into the harbour.

(7) It is hereby declared that nothing in the preceding provisions of this section authorises a person unnecessarily to prevent a ship from proceeding on a voyage.

(8) The Secretary of State may by regulations make provision as to the procedure to be followed in connection with the taking of samples under subsection (2)(f) above and subsection (11) below and provision as to the way in which samples that have been so taken are to be dealt with.

(9) Where an inspector proposes to exercise the power conferred by subsection (2)(g) above in the case of an article or substance found in any premises or ship, he shall, if so requested by a person who at the time is present in and has responsibilities in relation to the premises or ship, cause anything which is to be done by virtue of that power to be done in the presence of that person unless the inspector considers that its being done in that person's presence would be prejudicial to the safety of that person.

(10) Before exercising the power conferred by subsection (2)(g) above, an inspector shall consult such persons as appear to him appropriate for the purpose of ascertaining what dangers, if any, there may be in doing anything which he proposes to do under that power.

Merchant Shipping Act 1995

(11) Where under the power conferred by subsection (2)(h) above an inspector takes possession of any article or substance found in any premises or ship, he shall leave there, either with a responsible person or, if that is impracticable, fixed in a conspicuous position, a notice giving particulars of that article or substance sufficient to identify it and stating that he has taken possession of it under that power; and before taking possession of any such substance under that power an inspector shall, if it is practicable for him to do so, take a sample of the substance and give to a responsible person at the premises or on board the ship a portion of the sample marked in a manner sufficient to identify it.

(12) No answer given by a person in pursuance of a requirement imposed under subsection (2)(i) above shall be admissible in evidence against that person or the husband or wife of that person in any proceedings except proceedings in pursuance of subsection (1)(c) of section 260 in respect of a statement in or a declaration relating to the answer; and a person nominated as mentioned in the said subsection (2)(i) shall be entitled, on the occasion on which the questions there mentioned are asked, to make representations to the inspector on behalf of the person who nominated him.

260.—(1) A person who—

- (a) intentionally obstructs an inspector in the exercise of any power available to him under section 259; or
- (b) without reasonable excuse, does not comply with a requirement imposed in pursuance of section 259 or prevents another person from complying with such a requirement; or
- (c) without prejudice to the generality of paragraph (b) above, makes a statement or signs a declaration which he knows is false, or recklessly makes a statement or signs a declaration which is false, in purported compliance with a requirement made in pursuance of subsection (2)(i) of section 259,

shall be liable—

- (i) on summary conviction, to a fine not exceeding the statutory maximum;
- (ii) on conviction on indictment, to imprisonment for a term not exceeding two years, or a fine or both.

(2) Nothing in section 259 shall be taken to compel the production by any person of a document of which he would on grounds of legal professional privilege be entitled to withhold production on an order for discovery in an action in the High Court or, as the case may be, on an order for the production of documents in an action in the Court of Session.

(3) A person who complies with a requirement imposed on him in pursuance of paragraph (i)(i) or (k) of subsection (2) of section 259 shall be entitled to recover from the person who imposed the requirement such sums in respect of the expenses incurred in complying with the requirement as are prescribed by regulations made by the Secretary of State.

(4) Regulations under subsection (3) above may make different provision for different circumstances.

(5) Any payments under subsection (3) above shall be made out of money provided by Parliament.

PART XI

ACCIDENT INVESTIGATIONS AND INQUIRIES

Marine accident investigations

267.—(1) The Secretary of State shall, for the purpose of the investigation of any such accidents as are mentioned in subsection (2) below, appoint such number of persons as he may determine to be inspectors of marine accidents, and he shall appoint one of those persons to be Chief Inspector of Marine Accidents. Investigation of marine accidents.

(2) The accidents referred to in subsection (1) above are—

- (a)** any accident involving a ship or ship's boat where, at the time of the accident—
 - (i)** the ship is a United Kingdom ship, or
 - (ii)** the ship, or (in the case of an accident involving a ship's boat) that boat, is within United Kingdom waters, and
- (b)** such other accidents involving ships or ships' boats as the Secretary of State may determine.

(3) The Secretary of State may by regulations make such provision as he considers appropriate with respect to the investigation of any such accidents as are mentioned in subsection (2) above.

(4) Any such regulations may, in particular, make provision—

- (a)** with respect to the definition of "accident" for the purposes of this section and the regulations;
- (b)** imposing requirements as to the reporting of accidents;
- (c)** prohibiting, pending investigation, access to or interference with any ship or ship's boat involved in an accident;
- (d)** authorising any person, so far as may be necessary for the purpose of determining whether an investigation should be carried out, to have access to, examine, remove, test, take measures for the preservation of, or otherwise deal with, any such ship or boat or any other ship or ship's boat;
- (e)** specifying, with respect to the investigation of accidents, the functions of the Chief Inspector of Marine Accidents (which may include the function of determining whether, and if so by whom, particular accidents should be investigated), the functions of other inspectors of marine accidents, and the manner in which any such functions are to be discharged;
- (f)** for the appointment by the Chief Inspector of Marine Accidents, in such circumstances as may be specified in the regulations, of persons to carry out investigations under this section who are not inspectors of marine accidents;
- (g)** for the appointment by any Minister of the Crown of persons to review any findings or conclusions of a person carrying out an investigation under this section;
- (h)** for the procedure to be followed in connection with investigations or reviews under this section;
- (i)** for conferring on persons discharging functions under the regulations who are not inspectors of marine accidents all or any of the powers conferred on an inspector by section 259;
- (j)** for the submission to the Secretary of State, and the publication by him, of reports of investigations or reviews under this section;
- (k)** for the publication by the Chief Inspector of Marine Accidents of reports and other information relating to accidents.

(5) Regulations under this section may provide for any provisions of the regulations to apply to any specified class or description of incidents or situations which involve, or occur on board, ships or ships' boats but are not accidents for the purposes of the regulations, being a class or description framed by reference to any of the following, namely—

- (a) the loss or destruction of or serious damage to any ship or structure,
- (b) the death of or serious injury to any person, or
- (c) environmental damage,

whether actually occurring or not, and (subject to such modifications as may be specified in the regulations) for those provisions to apply in relation to any such incidents or situations as they apply in relation to accidents.

(6) Regulations under this section may provide that a contravention of the regulations shall be an offence punishable on summary conviction by a fine not exceeding the statutory maximum and on conviction on indictment by a fine.

(7) The Chief Inspector of Marine Accidents, or (as the case may be) inspectors of marine accidents generally, shall discharge such functions in addition to those conferred by or under the preceding provisions of this section as the Secretary of State may determine.

(8) Any inspector of marine accidents shall, for the purpose of discharging any functions conferred on him by or under this section, have the powers conferred on an inspector by section 259.

(9) Nothing in this section shall limit the powers of any authority under sections 252, 253 and 254.

(10) In this section—

- (a) references to an accident involving a ship or ship's boat include references to an accident occurring on board a ship or ship's boat (and any reference to a ship or ship's boat involved in an accident shall be construed accordingly); and
- (b) "ship's boat" includes a life-raft.

Merchant Shipping Act 1995

PART XIII

SUPPLEMENTAL

Administration

**General functions
of Secretary of
State.**

292.—(1) The Secretary of State shall continue to have the general superintendence of all matters relating to merchant shipping and seamen and is authorised to carry into execution the provisions of this Act and of all Acts relating to merchant shipping and seaman for the time being in force, except where otherwise provided or so far as relating to revenue.

(2) The Secretary of State may take any legal proceedings under this Act in the name of any of his officers.