
STATUTORY INSTRUMENTS

2004 No. 1495

The Ship and Port Facility (Security) Regulations 2004

PART 3

DETENTION OF SHIPS

Detention notices

8.—(1) Where a duly authorised officer proposes to detain a ship pursuant to the control and compliance measures specified in Regulation 9 of Chapter XI-2 of the SOLAS Convention, he shall serve on the master of the ship a notice (in this part referred to as a detention notice) which states that the duly authorised officer is detaining the ship because he has grounds for believing that—

- (a) the ship is not in compliance with Chapter XI-2 of the SOLAS Convention, or
- (b) the ship is not in compliance with Part A of the ISPS Code, or
- (c) there has been a failure to make available for inspection a valid International Ship Security Certificate or a valid Interim International Ship Security Certificate issued under Part A of the ISPS Code.

(2) A detention notice shall specify the steps that the duly authorised officer requires to be taken in respect of the ship in order to secure its release from detention.

(3) A detention notice shall require the master to take steps to ensure that the ship does not proceed to sea while the detention notice is in force.

(4) The master of a ship in respect of which a detention notice is served may object to the notice in writing to the Secretary of State.

(5) On receipt of an objection to a detention notice served under paragraph (1) the Secretary of State shall—

- (a) consider the objection;
- (b) allow the person making the objection and the duly authorised officer who gave the notice an opportunity to make written or oral representations to the Secretary of State or a person appointed by him;
- (c) confirm, modify or cancel the notice, and
- (d) give notice of his decision in writing to the person who made the objection and to the duly authorised officer who served the notice.

(6) The Secretary of State shall include in his decision a finding as to whether in relation to any of the matters specified in respect of a ship in a detention notice in pursuance of paragraph (1), there was or was not a valid basis for the detention of the ship.

(7) A detention notice in respect of a ship shall continue in force until—

- (a) a duly authorised officer cancels it by notice in writing.
- (b) the Secretary of State cancels it under paragraph (5)(c).

(8) A person commits an offence if without reasonable excuse he fails to comply with a requirement of a detention notice.

(9) A person who is guilty of an offence under paragraph (8) shall be liable —

(a) on summary conviction, to a fine not exceeding level 5 on the standard scale, or

(b) on conviction on indictment, to a fine or to imprisonment for a term not exceeding two years.

Compensation for invalid detention of a ship

9.—(1) Where having considered an objection in respect of a detention notice relating to a ship under regulation 8 the Secretary of State finds that there was no valid basis for the detention, the owner of the ship shall be entitled, upon application, to receive compensation for such loss or damage suffered by him which is directly attributable to the detention of the ship.

(2) A claim for compensation under this regulation shall be made in writing to the Secretary of State within three months beginning with the date the Secretary of State serves notice of his decision under regulation 8(5)(d).

(3) Any person claiming compensation under this regulation shall provide all such information and supplementary information in respect of the loss or damage incurred as the Secretary of State may at any time reasonably require and shall verify the same in any such manner, including the production of original documents in his possession or control, as may be reasonably required.

(4) Any disputed question as to the right to, or the amount of, any compensation payable under this regulation shall be referred to a single arbitrator appointed by agreement between the parties for that question to be decided by him.

(5) Any compensation granted under this section shall be payable by the Secretary of State.

(6) In the application of this regulation to Scotland any reference to an arbitrator shall be construed as a reference to an arbiter and the reference in paragraph (4) to a single arbitrator appointed by agreement between the parties shall be construed as a reference to a single arbiter so appointed or, in default of agreement, appointed by the sheriff.