

Directive 2009/16/EC of the European Parliament and of the Council of
23 April 2009 on port State control (Recast) (Text with EEA relevance)

Article 21

Follow-up to inspections and detentions

1 Where deficiencies referred to in Article 19(2) cannot be rectified in the port of inspection, the competent authority of that Member State may allow the ship concerned to proceed without undue delay to the appropriate repair yard nearest to the port of detention, as chosen by the master and the authorities concerned, where follow-up action can be taken, provided that the conditions determined by the competent authority of the flag State and agreed by that Member State are complied with. Such conditions shall ensure that the ship can proceed without risk to the safety and health of passengers or crew, or risk to other ships, or without there being an unreasonable threat of harm to the marine environment.

2 Where the decision to send a ship to a repair yard is due to a lack of compliance with IMO Resolution A. 744(18), either with respect to a ship's documentation or with respect to a ship's structural failures and deficiencies, the competent authority may require that the necessary thickness measurements be carried out in the port of detention before the ship is allowed to sail.

3 In the circumstances referred to in paragraph 1, the competent authority of the Member State in the port of inspection shall notify the competent authority of the State where the repair yard is situated, the parties mentioned in Article 19(6) and any other authority as appropriate of all the conditions for the voyage.

The competent authority of a Member State receiving such notification shall inform the notifying authority of the action taken.

4 Member States shall take measures to ensure that access to any port or anchorage within the Community is refused to ships referred to in paragraph 1 which proceed to sea:

- a without complying with the conditions determined by the competent authority of any Member State in the port of inspection; or
- b which refuse to comply with the applicable requirements of the Conventions by not calling into the indicated repair yard.

Such refusal shall be maintained until the owner or operator provides evidence to the satisfaction of the competent authority of the Member State where the ship was found defective, demonstrating that the ship fully complies with all applicable requirements of the Conventions.

5 In the circumstances referred to in paragraph 4(a), the competent authority of the Member State where the ship was found defective shall immediately alert the competent authorities of all the other Member States.

In the circumstances referred to in paragraph 4(b), the competent authority of the Member State in which the repair yard lies shall immediately alert the competent authorities of all the other Member States.

Before denying entry, the Member State may request consultations with the flag administration of the ship concerned.

Status: EU Directives are being published on this site to aid cross referencing from UK legislation. After IP completion day (31 December 2020 11pm) no further amendments will be applied to this version.

6 By way of derogation from the provisions of paragraph 4, access to a specific port or anchorage may be permitted by the relevant authority of that port State in the event of *force majeure* or overriding safety considerations, or to reduce or minimise the risk of pollution or to have deficiencies rectified, provided that adequate measures to the satisfaction of the competent authority of such Member State have been implemented by the owner, the operator or the master of the ship to ensure safe entry.