
STATUTORY INSTRUMENTS

2007 No. 3100

The Merchant Shipping and Fishing Vessels (Health and Safety at Work) (Carcinogens and Mutagens) Regulations 2007

Detention of a United Kingdom ship

20.—(1) Where a surveyor of ships is satisfied that there is or has been a failure by an employer or other person referred to in regulation 16(1) to comply in relation to any United Kingdom ship with the preceding requirements of these Regulations, that ship is liable to be detained until a surveyor of ships is satisfied that those requirements are complied with.

(2) A surveyor of ships may permit a ship which is liable to be detained under paragraph (1) to proceed to sea for the purposes of proceeding to the nearest appropriate repair yard.

(3) A ship shall not be delayed or detained unreasonably under this regulation.

(4) Where a ship is detained because in relation to it there has been a failure to comply with the requirements of these Regulations, and that failure has ceased, a person having power to detain the ship shall, at the request of the owner or master, immediately release the ship—

(a) if no proceedings for an offence arising from the failure in question are instituted within the period of seven days beginning with the day on which the ship is detained;

(b) if proceedings for an offence arising from the failure in question, having been instituted within that period, are concluded without the employer or other person having control of the matter in question being convicted;

(c) if either—

(i) the sum of £30,000 is paid to the Secretary of State by way of security, or

(ii) security which, in the opinion of the Secretary of State, is satisfactory and is for an amount not less than £30,000 is given to the Secretary of State,

by or on behalf of the employer or other person having control of the matter in question;

(d) where the employer or other person having control of the matter in question is convicted of an offence arising from the failure in question, if any costs or expenses ordered to be paid by him, and any fine imposed on him, have been paid; or

(e) the release is ordered by a court or tribunal referred to in article 292 of the United Nations Convention on the Law of the Sea 1982^{M1}, and any bond or other financial security ordered by such court or tribunal is posted.

(5) The Secretary of State shall repay any sum paid in pursuance of paragraph (4)(c) or release any security so given—

(a) if no proceedings for an offence arising from the failure in question are instituted within the period of seven days beginning with the day on which the sum is paid; or

(b) if proceedings for an offence arising from the failure in question, having been instituted within that period, are concluded without the employer or other person having control of the matter in question being convicted.

(6) Where a sum has been paid, or security has been given, by any person in pursuance of paragraph (4)(c) and the employer or other person having control of the matter in question is

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convicted of an offence arising from the failure in question, the sum so paid or the amount made available under the security shall be applied as follows—

- (a) first in payment of any costs or expenses ordered by the court to be paid by the employer or other person having control of the matter in question; and
- (b) next in payment of any fine imposed by the court,

and any balance shall be repaid to the first-mentioned person.

(7) Section 145 of the Act (interpretation of section 144) applies for the purposes of paragraphs (4) to (6) as if—

- (a) references to the master or owner of the ship were references to the employer or other person having control of the matter in question; and
- (b) references to an offence under section 131 were references to an offence arising from the failure in question.

Marginal Citations

M1 Cmnd. 8941.

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