
STATUTORY INSTRUMENTS

2017 No. 943

The Fishing Vessels (Codes of Practice) Regulations 2017

PART 4

Inspection and Detention

Detention of a United Kingdom fishing vessel

12.—(1) Where a surveyor of ships is satisfied that there is or has been a failure by an owner or skipper to comply in relation to any United Kingdom fishing vessel with the preceding requirements of these Regulations, that vessel 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 fishing vessel which is liable to be detained under paragraph (1) to proceed to sea for the purpose of proceeding to the nearest appropriate repair yard.

(3) A fishing vessel must not be delayed or detained unreasonably under this regulation.

(4) Where a United Kingdom fishing vessel is detained because in relation to it there has been a failure to comply with the preceding requirements of these Regulations, and that failure has ceased, a surveyor of ships must, at the request of the owner or skipper, immediately release the vessel—

- (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 vessel is detained;
- (b) if proceedings for an offence arising from the failure in question, having been instituted within that period, are concluded without the owner or skipper 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 owner or skipper;

(d) where the owner or skipper is convicted of an offence arising from the failure in question, if any costs or expenses ordered to be paid by the owner or skipper, and any fine imposed on the owner or skipper, have been paid; or

(e) if 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 must 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 owner or skipper 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 owner or skipper is convicted of an offence arising from the failure in question, the sum so paid or the amount made available under the security must be applied as follows—

- (a) first in payment of any costs or expenses ordered by the court to be paid by the owner or skipper; and
- (b) next in payment of any fine imposed by the court,

and any balance must 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 references to an offence under section 131 were references to an offence arising from the failure in question.

Marginal Citations

M1 Cmnd. 8941; http://www.un.org/depts/los/convention_agreements/texts/unclos/unclos_e.pdf.

Certification of non-United Kingdom fishing vessels

13.—(1) A non-United Kingdom fishing vessel must not enter United Kingdom waters unless—

- (a) if its registered length is 24 metres or over, it has been certified by its flag State as complying with the requirements of the Torremolinos Protocol, or
- (b) if its registered length is less than 24 metres, it has been certified by its flag State as complying with the requirements of that State applying to vessels of that length,

and must continue to so comply while in United Kingdom waters.

(2) In paragraph (1)(a) and (b), “certified” includes any form of documentation issued by the flag State recording that the vessel has been surveyed or inspected and found to be in compliance with the State's safety requirements applicable to vessels of its length and which is valid throughout the time the vessel is in United Kingdom waters.

Inspection of non-United Kingdom fishing vessels

14.—(1) When a non-United Kingdom fishing vessel is in United Kingdom waters, a surveyor of ships may inspect that vessel to ascertain whether the standards required in relation to United Kingdom fishing vessels by these Regulations are met in relation to that vessel.

(2) Where a surveyor of ships is satisfied that the standards required in relation to United Kingdom fishing vessels by these Regulations are not met in relation to a non-United Kingdom fishing vessel in United Kingdom waters, that surveyor of ships may—

- (a) send a report to the government of its flag State and a copy of that report to the Director General of the International Labour Office^{M2}; and
- (b) where conditions on board are clearly hazardous to health or safety, take such measures as are necessary to ensure those conditions are rectified.

(3) A fishing vessel to which paragraph (2)(b) applies is liable to be detained until a surveyor of ships is satisfied that those conditions are rectified.

(4) A surveyor of ships may permit a fishing vessel which is liable to be detained under paragraph (3) to proceed to sea for the purpose of proceeding to the nearest appropriate repair yard.

(5) If any of the measures specified in paragraph (2)(b) or (3) are taken, the surveyor of ships must immediately notify the nearest maritime, consular or diplomatic representative of the vessel's flag State.

(6) A fishing vessel must not, in the exercise of the power under this regulation, be delayed or detained unreasonably.

Marginal Citations

M2 The International Labour Office is the permanent secretariat of the International Labour Organisation: see <http://www.ilo.org/global/about-the-ilo/who-we-are/international-labour-office/lang--en/index.htm>.

Enforcement of detention

15.—(1) Section 284 of the Act (enforcing detention of ship) ^{M3} applies where a fishing vessel is liable to be detained under these Regulations as if—

- (a) references to detention of a ship under the Act were references to detention of the fishing vessel in question under these Regulations; and
- (b) subsection (7) were omitted.

(2) Where a fishing vessel is liable to be detained by virtue of these Regulations, a surveyor of ships must serve on the skipper a detention notice which —

- (a) states that, in the opinion of the surveyor of ships, the vessel does not comply with the requirements of these Regulations;
- (b) specifies the requirements which, in the opinion of the surveyor of ships, are not met in relation to that vessel; and
- (c) requires the terms of the notice to be complied with before the vessel is released by any person mentioned in section 284(1) of the Act.

Marginal Citations

M3 Section 284(1)(b) was substituted by the Merchant Shipping and Maritime Security Act 1997, Schedule 1, paragraph 5(2).

Right of appeal and compensation

16. Regulations 14, 15 and 16 (right of appeal and compensation, arbitration and compensation for unjustified detention) of the Merchant Shipping (Port State Control) Regulations 2011 ^{M4} apply to a detention notice served under these Regulations as they apply to a detention order under those Regulations.

Marginal Citations

M4 S.I. 2011/2601.

Changes to legislation:

There are currently no known outstanding effects for the The Fishing Vessels (Codes of Practice) Regulations 2017, PART 4.