
STATUTORY INSTRUMENTS

2018 No. 1106

The Merchant Shipping (Work in Fishing Convention) Regulations 2018

PART 8

Inspection of fishing vessels

[^{F1}Detention of fishing vessels

28A.—(1) Where a relevant inspector has reasonable grounds for believing that—

- (a) a fishing vessel does not comply with these Regulations; and
- (b) either—
 - (i) the conditions on board are clearly hazardous to the safety, health or security of fishermen; or
 - (ii) the non-compliance represents a serious breach or the latest in a series of repeated breaches of these Regulations or the requirements of the Work in Fishing Convention,

that fishing vessel is liable to be detained.

(2) Where—

- (a) a fishing vessel owner has failed to make provision in connection with which the Secretary of State has incurred costs under regulation 19; and
- (b) the Secretary of State has requested reimbursement of those costs but has not been reimbursed,

every fishing vessel which is owned by the fishing vessel owner is liable to be detained.

(3) Where a fishing vessel is detained under this regulation and all of the grounds for detention have ceased to apply, a person having power to detain the fishing vessel must, at the request of the fishing vessel owner or the skipper of the fishing vessel, immediately release the fishing vessel—

- (a) if no proceedings for an offence under these Regulations are instituted within the period of seven days beginning with the day on which the fishing vessel is detained;
- (b) if proceedings for an offence under these Regulations, having been instituted within that period, are concluded without the fishing vessel owner or the skipper of the fishing vessel 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 fishing vessel owner or the skipper of the fishing vessel;

- (d) where the fishing vessel owner or the skipper of the fishing vessel is convicted of an offence under these Regulations, if any costs or expenses ordered to be paid by that person, and any fine imposed on that person, 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, and any bond or other financial security ordered by such court or tribunal is posted.
- (4) The Secretary of State must repay any sum paid in pursuance of paragraph (3)(c) or release any security so given—
- (a) if no proceedings for an offence under these Regulations are instituted within the period of seven days beginning with the day on which the sum is paid or the security is given; or
 - (b) if proceedings for such an offence, having been instituted within that period, are concluded without the fishing vessel owner or the skipper of the fishing vessel being convicted.
- (5) Where a sum has been paid, or security has been given, by any person in pursuance of paragraph (3)(c) and the fishing vessel owner or the skipper of the fishing vessel is convicted of an offence under these Regulations, 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 fishing vessel owner or the skipper of the fishing vessel; and
 - (b) next in payment of any fine imposed by the court,
- and any balance must be repaid to the person who paid the sum or, as the case may be, gave the security.
- (6) Section 145 of the Act (interpretation of references in section 144 to the institution of proceedings or their conclusion without conviction) applies for the purposes of paragraphs (3) and (4) as if—
- (a) references to the owner of a ship were to the fishing vessel owner under these Regulations; and
 - (b) references to an offence under section 131 were references to an offence under these Regulations.
- (7) In this regulation, “relevant inspector” has the same meaning as in regulation 28(6).]

Textual Amendments

- F1** Regs. 28A, 28B inserted (26.12.2020) by [The Merchant Shipping \(Maritime Labour Convention and Work in Fishing Convention\) \(Amendment\) Regulations 2020 \(S.I. 2020/1166\)](#), regs. 1, **3(3)**

Changes to legislation:

There are currently no known outstanding effects for the The Merchant Shipping (Work in Fishing Convention) Regulations 2018, Section 28A.