
STATUTORY INSTRUMENTS

2008 No. 2924

**The Merchant Shipping (Prevention of Air
Pollution from Ships) Regulations 2008**

PART 4

Inspections, Detentions and Offences

Power for harbour master to detain

29.—(1) Where the harbour master of a harbour in the United Kingdom has clear grounds for believing that an offence under regulation 20(1), 21(4), 22(1), (2) or (4), 23(3) or (4), 24(1), 24(4) or (7) has been committed the harbour master may detain that ship.

(2) Section 144(2) and (3) of the 1995 Act (harbour master's power of detention of ships for certain offences) applies to a detention under paragraph (1) as it applies to a detention under section 144(1) of the 1995 Act.

(3) Where a ship is liable to be detained under this regulation, the harbour master detaining the ship must serve on the master of the ship a detention notice which—

- (a) states the grounds for the detention, and
- (b) requires the terms of the notice to be complied with until the ship is released by the harbour authority.

(4) Where a ship is detained under paragraph (2), the harbour master must immediately release the ship—

- (a) if no proceedings for an offence under regulation 20(1), 21(4), 22(1), (2) or (4), 23(3) or (4), 24(1), (4) or (7) are instituted within the period of seven days beginning with the day on which the ship is detained,
- (b) if proceedings for an offence under that regulation, having been instituted within that period, are concluded without the owner, manager, demise charterer or master being convicted,
- (c) if either—
 - (i) the sum of £30,000 is paid to the harbour authority by way of security, or
 - (ii) security which, in the opinion of the harbour authority, is satisfactory and is for an amount not less than £30,000 is given to the harbour authority,

by or on behalf of the owner, manager, demise charterer or master,

- (d) where the owner, manager, demise charterer or master is convicted of an offence under any of those 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) 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.

(5) The harbour authority must repay any sum paid in pursuance of paragraph (4)(c) or release any security so given—

- (a) if no proceedings for an offence under regulation 20(1), 21(4), 22(1), (2) or (4), 23(3), or (4), 24(1), (4) or (7) are instituted within the period of seven days beginning with the day on which the sum is paid, or
- (b) if proceedings for any offence, having been instituted within that period, are concluded without the owner, manager, demise charterer or master 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, manager, demise charterer or master is convicted of an offence under regulation 20(1), 21(4), 22(1), (2) or (4), 23(3) or (4), 24(1), (4) or (7), 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, manager, demise charterer or master, 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 1995 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 owner, manager, demise charterer or master, and
- (b) references to an offence under section 131 were references to an offence under regulation 20(1), 21(4), 22(1), (2) or (4), 23(3) or (4), 24(1), (4) or (7).