
STATUTORY INSTRUMENTS

2010 No. 680

The Merchant Shipping (Passenger Ships) (Safety Code for UK Categorised Waters) Regulations 2010

Detention

22.—(1) Where a surveyor has made a determination and provided advice under regulation 18 or has clear grounds for believing that—

- (a) a passenger ship safety certificate is required to have been issued in respect of the ship but has not been issued, or has been issued but is not valid,
- (b) the structure of the ship is not in a satisfactory condition fit for the purpose for which the ship is intended,
- (c) the ship does not fully comply with the mandatory safety requirements or any alternative that has been permitted under regulation 5,
- (d) the master or crew are not competent to operate the ship, or
- (e) an offence under regulation 23 is being committed in respect of the ship,

that ship is liable to be detained until a surveyor is satisfied that it can proceed on a voyage with passengers without any unreasonable safety risk arising.

(2) Section 284 of the 1995 Act (enforcing detention of a ship)(1) applies where a ship is liable to be detained under paragraph (1) as if—

- (a) references to detention of a ship under the Act were references to detention of the ship in question under paragraph (1) of this regulation; and
- (b) subsection (7) were omitted.

(3) Where a ship is liable to be detained under paragraph (1), the person 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 any person mentioned in section 284(1) of the 1995 Act.

(4) Where a ship other than a United Kingdom ship is detained, the Secretary of State must immediately notify the nearest maritime, consular or diplomatic representative of the State whose flag the ship is entitled to fly.

(5) A ship must not be delayed or detained unreasonably under this regulation.

(6) Where a ship is detained under paragraph (1), a person having power to detain the ship must, at the request of the owner or master, immediately release the ship—

- (a) if no proceedings for an offence under regulation 23 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 regulation 23, having been instituted within that period, are concluded without the owner, master or other person in question being convicted;

(1) Section 284 was amended by the Merchant Shipping and Maritime Security Act 1997 (c.28), section 9 and Schedule 1 paragraph 5.

(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, master or other person in question;

- (d) where the owner, master or other person in question is convicted of an offence under regulation 23, 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(2), and any bond or other financial security ordered by such court or tribunal is posted.

(7) The Secretary of State must repay any sum paid in pursuance of paragraph (6)(c) or release any security so given—

- (a) if no proceedings for an offence under regulation 23 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 under regulation 23, having been instituted within that period, are concluded without the owner, master or other person in question being convicted.

(8) Where a sum has been paid, or security has been given, by any person in pursuance of paragraph (6)(c) and the owner, master or other person in question is convicted of an offence under regulation 23, 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, master or other person in question, and
- (b) next in payment of any fine imposed by the court,

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

(9) Section 145 of the 1995 Act (interpretation of section 144) applies for the purposes of paragraphs (6) to (8) as if references to an offence under section 131 were references to an offence under regulation 23.