
STATUTORY INSTRUMENTS

2018 No. 68

**The Merchant Shipping (Prevention of Pollution from
Noxious Liquid Substances in Bulk) Regulations 2018**

PART 5

Enforcement

Power for harbour master to detain

35.—(1) Where the harbour master of a harbour in the United Kingdom has clear grounds for believing that an offence under regulation 24 or 26(2) has been committed in respect of a ship, 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 that 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 this regulation, the harbour master must immediately release the ship—

- (a) if no proceedings for an offence under regulation 24 or 26(2) are instituted within the period of seven days beginning with the day on which the ship is detained;
- (b) if proceedings for any such offence, 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 regulation 24 or 26(2), 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.

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

- (a) if no proceedings for an offence under regulation 24 or 26(2) are instituted within the period of seven days beginning with the day on which the sum is paid; or
 - (b) if proceedings for any such 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 under paragraph (4)(c) and the owner, manager, demise charterer or master is convicted of an offence under regulation 24 or 26(2), 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 24 or 26(2).

Changes to legislation:

There are currently no known outstanding effects for the The Merchant Shipping (Prevention of Pollution from Noxious Liquid Substances in Bulk) Regulations 2018, Section 35.