

Circular 91 / 2014

To: Vessel Owners, Managers, Masters, Deputy Registrars, Surveyors and Other Interested Parties

Subject: Paris MoU issues Guidance on Detention and Action Taken

Date: 9 October 2014

Summary

Maritime Cook Islands kindly draws your attention to the following guidance

What a PSCO should do if deficiencies are found on-board

The Paris MoU has issued guidance regarding action taken by the PSCO if deficiencies are found on board. In general, PSCO must decide on the appropriate action to be taken, be satisfied that they will be rectified and also decide if it is a ground for detention. In principle all deficiencies should be rectified before the departure of the ship. This does not mean that every deficiency must be checked as rectified by the PSCO.

Appropriate actions to be taken include, among others:

- requesting further information
- consultation with Flag and/or R.O.
- immediate or future rectification
- detention
- allowing a ship to proceed to a repair port

Principles governing rectification of deficiencies or detention of a ship

In taking a decision concerning the rectification of a deficiency or detention of a ship, the PSCO will take into consideration the results of the more detailed or expanded inspection carried out in accordance with section 3 of the Memorandum and the procedures for the detention of ships of all sizes.

The PSCO will exercise professional judgment in determining whether to detain the ship until the deficiencies are rectified or to allow it to sail with certain deficiencies without unreasonable danger to the safety, health, or the environment, having regard to the particular circumstances of the intended voyage. As regards minimum manning standards and the provisions of the relevant ILO Conventions, special procedures will be observed.

Detention related to minimum manning standards and certification

Before detaining a ship for reasons of deficient manning standards and certification, the following will be considered

- length and nature of the intended voyage or service;
- whether or not the deficiency poses a danger to ships, persons on board or the environment;
- whether or not appropriate rest periods of the crew can be observed;
- size and type of ship and equipment provided; and
- nature of cargo.

Procedures for the detention of ships of all sizes

When exercising professional judgment as to whether or not a ship should be detained the PSCO will apply the following criteria:

Timing: ships which are unsafe to proceed to sea will be detained upon the first inspection irrespective of the time the ship will stay in port;

Criterion: the ship will be detained if the deficiencies on a ship are sufficiently serious to merit a PSCO returning to the ship to be satisfied that they have been rectified before the ship sails.

The need for the PSCO to return to the ship classifies the seriousness of the deficiencies. However, it does not impose such an obligation for every case. It implies that the PSC Authority will verify, one way or another, preferably by a further visit, that the deficiencies have been rectified before departure.

Further details may be found by reading the full “Guidance of Detention and Action Taken” attached below

For further information or clarification please contact the Registrar of Ships, a Deputy Registrar or Fleet Manager at Maritime Cook Islands; alternatively you may contact Maritime Cook Islands Head Office at +682 23848 Phone, +682 23846 Fax, fleet@maritimecookislands.com

Please ensure this has been forwarded to interested parties.

GUIDANCE ON DETENTION AND ACTION TAKEN

1. INTRODUCTION

1.1. General

If deficiencies are found the PSCO must:

- decide on the appropriate action to be taken.
- be satisfied that they will be rectified.
- decide if it is a ground for detention.

In principle all deficiencies should be rectified before the departure of the ship. This does not mean that every deficiency must be checked as rectified by the PSCO.

1.2. Goals and purpose

The following gives guidance on grounds for detention and on the use of the standard action taken codes relating to an individual deficiency or to the PSC inspection. The action taken codes are grouped as follows:

1. Deficiency Action Taken
2. Inspection Action Taken
3. Reporting Action Taken

1.3. Application

Actions taken are allocated a code number which is further detailed below. This provides a shorthand method of recording the action taken if the report of inspection is completed manually.

Appropriate actions to be taken include, among others:

- requesting further information
- consultation with Flag and/or R.O.
- immediate or future rectification
- detention
- allowing a ship to proceed to a repair port

2. RECTIFICATION AND DETENTION

2.1. Principles governing rectification of deficiencies or detention of a ship

In taking a decision concerning the rectification of a deficiency or detention of a ship, the PSCO will take into consideration the results of the more detailed or expanded inspection carried out in accordance with section 3 of the Memorandum and the procedures mentioned in point 2.3 below.

The PSCO will exercise professional judgment in determining whether to detain the ship until the deficiencies are rectified or to allow it to sail with certain deficiencies without unreasonable danger to the safety, health, or the environment, having regard to the particular circumstances of the intended voyage. As regards minimum manning standards and the provisions of the relevant ILO Conventions, special procedures will be observed.

2.2. Detention related to minimum manning standards and certification

Before detaining a ship for reasons of deficient manning standards and certification, the following will be considered, giving due regard to 2.3.4.12:

- .1 length and nature of the intended voyage or service;
- .2 whether or not the deficiency poses a danger to ships, persons on board or the environment;
- .3 whether or not appropriate rest periods of the crew can be observed;
- .4 size and type of ship and equipment provided; and
- .5 nature of cargo.

2.3. Procedures for the detention of ships of all sizes

2.3.1. Introduction

These procedures will be used if detainable deficiencies are found during the course of a ship inspection.

2.3.2. Main criteria

When exercising professional judgement as to whether or not a ship should be detained the PSCO will apply the following criteria:

- .1 Timing: ships which are unsafe to proceed to sea will be detained upon the **first** inspection irrespective of the time the ship will stay in port;
- .2 Criterion: the ship will be detained if the deficiencies on a ship are sufficiently serious to merit a PSCO returning to the ship to be satisfied that they have been rectified before the ship sails.

The need for the PSCO to return to the ship classifies the seriousness of the deficiencies. However, it does not impose such an obligation for every case. It implies that the PSC Authority will verify, one way or another, preferably by a further visit, that the deficiencies have been rectified before departure.

2.3.3. Application of main criteria

When deciding whether the deficiencies found in a ship are sufficiently serious to merit detention the PSCO will assess whether:

- .1 the ship has relevant, valid documentation;
- .2 the ship has the crew required in the Minimum Safe Manning Document or equivalent.

During inspection the PSCO will further assess whether the ship and/or crew is able to:

- .3 navigate safely throughout the forthcoming voyage;
- .4 safely handle, carry and monitor the condition of the cargo throughout the forthcoming voyage;
- .5 operate the engine room safely throughout the forthcoming voyage;
- .6 maintain proper propulsion and steering throughout the forthcoming voyage;
- .7 fight fires effectively in any part of the ship if necessary during the forthcoming voyage;
- .8 abandon ship speedily and safely and effect rescue if necessary during the forthcoming voyage;
- .9 prevent pollution of the environment throughout the forthcoming voyage;
- .10 maintain adequate stability throughout the forthcoming voyage;
- .11 maintain adequate watertight integrity throughout the forthcoming voyage;
- .12 communicate in distress situations if necessary during the forthcoming voyage;
- .13 provide safe and healthy conditions on board throughout the forthcoming voyage;
- .14 provide the maximum of information in case of accident (as provided by the voyage data recorder).

If the result of any of these assessments is negative, taking into account all deficiencies found, the ship will be strongly considered for detention. A combination of deficiencies of a less serious nature may also warrant the detention of the ship.

2.3.4. Detainable deficiencies

To assist the PSCO in the use of the procedures specified in section 2.3.2 there follows a list of deficiencies, grouped under relevant Conventions and/or Codes, which are considered of such a serious nature that they may warrant the detention of the ship involved. This list is not considered exhaustive but is intended to give an exemplification of relevant items. However, the detainable deficiencies in the area of STCW, listed in 2.3.4.12, are the only grounds for detention under this Convention. Regarding ships below convention size refer to Paris Memorandum Annex 1, Section 2.

2.3.4.1. General

- .1 The lack of valid certificates and documents as required by the relevant instruments.

However, ships flying the flag of States not a party to a Convention (relevant instrument) or not having implemented an other relevant instrument, are not entitled to carry the certificates provided for by the Convention or other relevant instrument. Therefore, absence of the required certificates will not by itself constitute reason to detain these ships, however, in applying the 'no more favourable treatment' clause, substantial compliance with the provisions must be required before the ship sails.

2.3.4.2. Areas under SOLAS

- .1 failure of proper operation of propulsion and other essential machinery, as well as electrical installations;
- .2 insufficient cleanliness of engine room, excess amount of oily-water mixtures in bilges, insulation of piping including exhaust pipes in engine room contaminated by oil, improper operation of bilge pumping arrangements;
- .3 failure of the proper operation of emergency generator, lighting, batteries and switches;
- .4 failure of the proper operation of the main and auxiliary steering gear;
- .5 absence, insufficient capacity or serious deterioration of personal lifesaving appliances, survival craft and launching arrangements;
- .6 absence, non-compliance or substantial deterioration to the extent that it cannot comply with its intended use of fire detection system, fire alarms, fire fighting equipment, fixed fire extinguishing installation, ventilation valves, fire dampers, quick closing devices;
- .7 absence, substantial deterioration or failure of proper operation of the cargo deck area fire protection on tankers;

- .8 absence, non-compliance or serious deterioration of lights, shapes or sound signals;
- .9 absence or failure of the proper operation of the radio equipment for distress and safety communication;
- .10 absence or failure of the proper operation of navigation equipment, taking the provisions of SOLAS into account;
- .11 absence of corrected navigational charts, and/or all other relevant nautical publications necessary for the intended voyage, taking into account that type-approved electronic chart display and information system (ECDIS) operating on official data may be used as a substitute for the charts;
- .12 absence of non-sparking exhaust ventilation for cargo pump rooms;
- .13 serious deficiencies in the operational requirements .

2.3.4.3. Areas under the IBC Code

- .1 transport of a substance not mentioned in the Certificate of Fitness or missing cargo information;
- .2 missing or damaged high-pressure safety devices;
- .3 electrical installations not intrinsically safe or corresponding to code requirements;
- .4 sources of ignition in hazardous locations;
- .5 contraventions of special requirements;
- .6 exceeding of maximum allowable cargo quantity per tank;
- .7 insufficient heat protection for sensitive products.

2.3.4.4. Areas under the IGC Code

- .1 transport of a substance not mentioned in the Certificate of Fitness or missing cargo information;
- .2 missing closing devices for accommodations or service spaces;
- .3 bulkhead not gastight;
- .4 defective air locks;
- .5 missing or defective quick closing valves;
- .6 missing or defective safety valves;
- .7 electrical installations not intrinsically safe or not corresponding to code requirements;
- .8 ventilators in cargo area not operable;
- .9 pressure alarms for cargo tanks not operable;
- .10 gas detection plant and/or toxic gas detection plant defective;
- .11 transport of substances to be inhibited without valid inhibitor certificate.

2.3.4.5. Areas under LOADLINES

- .1 significant areas of damage or corrosion, or pitting of plating and associated stiffening in decks and hull effecting seaworthiness or strength to take local loads, unless proper temporary repairs for a voyage to a port for permanent repairs have been carried out; a recognized case of insufficient stability;
- .2 absence of sufficient and reliable information, in an approved form, which by rapid and simple means enables the master to arrange for the loading and ballasting of his ship in such a way that a safe margin of stability is maintained at all stages and at varying conditions of the voyage, and that the creation of any unacceptable stresses in the ship's structure are avoided;
- .4 absence, substantial deterioration or defective closing devices, hatch closing arrangements and water tight doors;
- .5 overloading;
- .6 absence of or impossibility to read draught mark.

2.3.4.6. Areas under Annex I to MARPOL

- .1 absence, serious deterioration or failure of proper operation of the oily-water filtering equipment, the oil discharge monitoring and control system or the 15 ppm alarm arrangements;

- .2 remaining capacity of slop and/or sludge tank insufficient for the intended voyage;
- .3 oil record book not available;
- .4 unauthorized discharge bypass fitted;
- .5 survey report file missing or not in conformity with the double hull and double bottom requirements.

2.3.4.7. Areas under Annex II to MARPOL

- .1 absence of the P&A Manual;
- .2 cargo is not categorized;
- .3 no cargo record book available;
- .4 transport of oil-like substances without satisfying the requirements;
- .5 unauthorized discharge by-pass fitted.

2.3.4.8. Areas under Annex III to MARPOL

- .1 absence of a valid Document of Compliance for carriage of dangerous goods (if required);
- .2 absence of a Dangerous Cargo manifest or detailed stowage plan before departure of the ship;
- .3 stowage and segregation provisions of the IMDG Code Chapter 7.1 and 7.2 are not met;
- .4 ship is carrying dangerous goods not in compliance with the Document of Compliance for carriage of dangerous goods of the ship;
- .5 ship is carrying damaged or leaking dangerous goods packages;
- .6 ship's personnel assigned to specific duties related to the cargo are not familiar with those duties, any dangers posed by the cargo and with the measures to be taken in such a context.

2.3.4.9. Areas under Annex IV to MARPOL

- .1 absence of a Sewage treatment system
- .2 not functioning Sewage comminuting and disinfecting system
- .3 absence of a Sewage discharge connection

2.3.4.10. Areas under Annex V to MARPOL

- .1 absence of the garbage management plan;
- .2 no garbage record book available;
- .3 ship's personnel not familiar with disposal/discharge requirements of garbage management plan.

2.3.4.11. Areas under Annex VI to MARPOL

- .1 per Guidelines for port State control inspections for compliance with Annex VI of MARPOL regulations for the prevention of air pollutions from ships.

2.3.4.12. Areas under STCW

- .1 failure of navigational or engineering watch arrangements to conform to the requirements specified for the ship by the flag State Administration;
- .2 absence in a watch of a person qualified to operate equipment essential to safe navigation, safety radio communications or the prevention of marine pollution;
- .3 inability to provide for the first watch at the commencement of a voyage and for subsequent relieving watches persons who are sufficiently rested and otherwise fit for duty.

2.3.4.13. Areas under ILO Conventions

Under ILO147:

- .1 insufficient food for voyage to next port;
- .2 insufficient potable water for voyage to next port;
- .3 excessively unsanitary conditions on board;
- .4 no heating in accommodation of a ship operating in areas where temperatures may be excessively low;
- .5 excessive garbage, blockage by equipment or cargo or otherwise unsafe conditions in passageways/accommodations;
- .6 per Guideline for the Port State Control Officer on the inspection of hours of work/rest and fitness for duty and Guidance for inspection on working and living conditions.

Under MLC, 2006:

- .7 per Guidance for inspection on Maritime Labour Convention, 2006 and Guideline for the Port State Control Officer on the inspection of hours of work/rest and fitness for duty

2.3.4.14. Areas under AFS Convention

- .1 per Guidelines for port State control officers on control of Anti-Fouling Systems (AFS) on ships.

2.4. Areas which may not warrant a detention, but where e.g. cargo operations have to be stopped

- 2.4.1 failure of the proper operation (or maintenance) of inert gas system, cargo related gear or machinery will be considered sufficient ground to stop cargo operation.

ACTION TAKEN

1. DEFICIENCY ACTION TAKEN

Rectified (code 10)

Used for a deficiency which has been rectified and verified by a PSCO.

To be rectified at next port (code 15)

Use for a deficiency which cannot be rectified before departure but which the PSCO requires the rectification at the next port.

This action requires that the deficiency is rectified **at** the next port. It is possible that the repair work or delivery of equipment may take place during the ship's stay in that port.

To be rectified within 14 days (code 16)

Used for a deficiency which, in the PSCO's professional judgement, is not serious enough to require urgent rectification or verification by a PSCO before departure.

This action taken sets a maximum limit of 14 days but it is left to the master's responsibility to rectify the deficiency as soon as necessary and reasonable within that period.

To be rectified before departure (code 17)

Used for a deficiency which:

should be rectified before the ship sails but is not serious enough to warrant detention,

or/and

can reasonably be rectified before the ship sails.

If the ship is not detained it is left to the master's responsibility to rectify the deficiency before departure. No verification by a PSCO is required (at that port call).

If a deficiency which is to be rectified before departure is verified by a PSCO as rectified before the ship departs it should be recorded as rectified.

Internal safety audit and corrective action is required within 3 months (code 18)

Used only for defective item code 15150 ISM.

The PSCO should use professional judgement in deciding whether technical or operational related deficiencies, individually or collectively do not warrant a detention of the ship but indicate a failure, or lack of effectiveness, of the implementation of the ISM Code.

If the PSCO does establish a link between technical or operational related deficiencies found and the implementation of the ISM Code, an ISM related deficiency should be recorded with the action taken code "Internal safety audit and corrective action is required within 3 months". After 3 month this will create an unexpected factor and makes the ship eligible for an additional inspection. The internal safety audit should be carried out according to the ISM Code Section 12.1 Part A.

Code 18 is also to be used as final action taken for a detainable defective item code 15150, once the external audit required by code 19 has been carried out.

Safety management audit by the Administration is required before departure of the ship
(code 19)

Used only for a detainable defective item code 15150 ISM.

The PSCO should use professional judgement in deciding whether technical or operational related deficiencies, individually or collectively lead to detention of the ship and indicate a serious failure, or lack of effectiveness, of the implementation of the ISM Code

If the PSCO does establish a link between technical or operational related deficiencies found and the implementation of the ISM Code, an ISM related deficiency should be recorded with the action taken code "Safety management audit by the Administration is required before departure of the ship".

A serious failure or lack of effectiveness of the implementation of the ISM Code is a ground for detention.

Competent Security Authority informed (code 26)

Used only for a deficiency of the Security code series where the competent security authority of the PSCO's State is informed that clear grounds have been found in accordance with the PSCCInstruction Guidelines on Security.

Grounds for detention (tick box)

Used for each deficiency which is a ground for detention, taking account of point 2.3.3. of this guideline.

RO resp. (tick box)

Used for each detainable deficiency which is determined, in accordance with a PSCCInstruction on Criteria for Responsibility Assessment of Recognised Organisations (R/O) should be related to the Recognised Organisation that issued or endorsed the statutory certificates related to the detainable deficiency.

Accidental Damage (tick box)

Used only for a deficiency for which Paris MoU Section 3.5 is applying.

ISM related (tick box)

Used for each technical or operational related deficiency which should be related to the defective item code 15150

To be rectified at agreed repair port (code 46)

Used only for a detainable deficiency which the PSCO agrees for the ship to sail to a repair port for rectification.

As in the agreed class condition (code 47)

Used for a deficiency which is not fully rectified but which the PSCO has accepted a “condition of class” on the outstanding deficiency issued by the classification society for the ship. This action can only relate to an item covered by the classification certificate e.g. hull and machinery.

It is not the same as a condition issued by the flag State (see code 48).

As in the agreed flag State condition (code 48)

Used only for a deficiency found during the PSC inspection which cannot be fully rectified before departure for which the PSCO has accepted a document with a condition on the outstanding deficiency issued by the flag State of the ship or delegated RO on behalf of the flag State of the ship.

As in the agreed rectification action plan (code 49)

Used only for MLC, 2006 related detainable deficiencies.

The master and shipowner propose a Rectification Action Plan. The RAP should be submitted by the master to the flag State and should be attached to the notice of release of detention form. The RAP should specify, in particular, the action required and time frame agreed to rectify the MLC, 2006 related detainable deficiency(ies)

See also Section 2.3.4.13. of this guideline.

Flag State Administration consulted (code 55)

Used when the flag State is consulted over a deficiency.

Operation stopped (code 65)

Used when the PSCO orders an operation/activity observed during the inspection to be stopped.

Temporary substitution (code 80)

Used when a deficiency has been rectified by a temporary substitution of equipment or by putting in place a temporary arrangement e.g. the engine room is manned while a deficiency in the fire detection is not yet repaired.

Temporary repair carried out (code 81)

Used for a deficiency which is only temporarily repaired before departure after the PSCO agrees to a proposal from the ship, R.O. or flag. The PSCO should also require that the deficiency is fully rectified in a specified time, for example at the next port, at an agreed repair port, in 14 days or as mentioned in the agreed flag State condition.

Letter of warning issued (code 95)

Used only for letters of warning specified by the PMoU Port State Control Committee.

Letter of warning withdrawn (code 96)

Used only for letters of warning specified by the PMoU Port State Control Committee.

Master instructed to ... (code 99)

Used only when an instruction to the master is considered appropriate and it is not covered by the standard actions taken. Further it is necessary to indicate in **clear text** as to what the master is instructed to do and the time allowable for completing the action requested.

Code 99 is available for any deficiency an all main groups of codes except:

ISM
Security

2. INSPECTION ACTION TAKEN (tick boxes on Form A)

Vessel expelled on security grounds

Used only when a ship has been expelled by the Competent Security Authority on security grounds

Marpol investigation of contravention of discharge provision

Used only when a ship is inspected due to a MARPOL contravention

Inspection suspended

According to Section 3.6 of the Paris MoU only in **exceptional** circumstances when as a result of a more detailed inspection the ship is found to be obviously sub-standard the inspection can be suspended.

An expanded inspection meeting the criteria of a more detailed inspection can also be suspended

The following criteria must be fulfilled before inspection suspended can be used:

1. certificates and documents according to Annex 10 of the Paris MoU have to be checked;
2. the overall condition of the ship and its equipment, also taking into account the crew's living and working conditions, have to be checked;
3. rectification of outstanding deficiencies has to be verified;
4. a more detailed inspection in the area where clear grounds are established to be carried out;
5. a more detailed inspection in other areas at random to be carried out;
6. operational controls to be carried out;
7. detainable deficiencies in **several areas** have to be established.

Provided all the above criteria are fulfilled the ship can be detained and the inspection suspended until the responsible parties (flag and R.O.) have ensured that the ship complies with all the relevant Conventions (in accordance with provision of MoU).

If inspection suspended is used the reasons for suspending the inspection should be recorded in free text.

Dismissed on AFS grounds

Used only when a ship has been expelled on AFS grounds

Excluded AFS grounds

Used only when for a ship sampling has proved that the ship is non-compliant but the results have been obtained after it has sailed or after it has been dismissed

Vessel expelled on other grounds

Used only when a ship has been expelled on other reasons than on AFS grounds. The reason on which a ship has been expelled has to be included in the report

3. REPORTING ACTION TAKEN (tick boxes on Form A)

Flag State Administration informed

Used when the Flag State Administration has been informed about a detention/release of a ship or in case an "on shore complaint" could not be resolved

Recognised organisation informed

Used when the Recognised organisation has been informed about a detention/release of a ship certified by that Recognised organisation

Coastal State informed

Used when a coastal State has been informed about the findings of an investigation of a reported contravention regarding AFS.

ILO informed

Used when the ILO has been informed about a detention/release of a ship in case of detainable deficiency(ies) related to ILO Conventions or in case an "on shore complaint" could not be resolved

Union representative informed

Used when the Union representative of the port State has been informed according to Paris MoU Annex 2 Section 2.2.

Other authority informed

Used if any other authority than the flag State, the Recognised Organisation, the ILO or Shipowners' and seafarers' organizations have been informed.

Observations to inspection

Used when a free text information has been added to the inspection

Ship owner organisation informed

Used when the Ship owner organisation of the port State has been informed according to Paris MoU Annex 2 Section 2.2.

Overriding Factor

Used only when the ship is inspected due to an overriding factor according to Paris MoU Annex 8 Section 11

Shipowners' and seafarers' organizations informed

Used when the Shipowners' and seafarers' organizations of the port State have been informed about a detention/release of a ship in case of detainable deficiency(ies) related to MLC, 2006, in case an "on shore complaint" could not be resolved or in case a Significant deficiency or deficiency in connection with a Complaint has been raised.

The flag State has been requested an action plan within a deadline

Used only when the flag state has been requested for an action plan concerning an unresolved on-shore seafarer complaint.