



INFORMATION BULLETIN No. 120

Port State and Flag State Detentions

Guidance and Instructions for Bahamas Recognised Organisations,
Bahamas Approved Nautical Inspectors, Ship Owners, Managers and
Masters

1. Purpose
 - 1.1. This Bulletin advises the actions to be taken when Bahamian ships are subject to Port State or Flag State detention.
 - 1.2. This Bulletin should be read in conjunction with International Maritime Organization (IMO) Assembly Resolution A.1119(30) [Procedures for Port State Control 2017](#)¹ and International Labour Organization (ILO) [Guidelines for port State control officers carrying out inspections under the Maritime Labour Convention, 2006](#)².
2. Application
 - 2.1. This Bulletin is applicable to all Bahamian ships that have been detained by Port State Control (PSC) authorities, including **"Administrative"** or preventative detentions (i.e. detentions that are not reportable to IMO).
 - 2.2. The imposition of a flag State detention (i.e. suspension of the Certificate of Registry) will have the same effect, for the purposes of this Bulletin, as a PSC detention.

¹ Available at: <http://www.bahamasmaritime.com/wp-content/uploads/2018/03/A-30-Res.1119-PROCEDURES-FOR-PORT-STATE-CONTROL-2017.pdf>

² Available at: http://www.ilo.org/wcmsp5/groups/public/---ed_norm/---normes/documents/publication/wcms_101787.pdf

3. General

3.1. Companies³ operating Bahamian ships will understand the importance and benefits of maintaining, and improving, the current low rate of Port State Control (PSC) detentions and the position of The Bahamas as a less targeted flag (white list) of the major regional PSC Memoranda of Understanding (MOUs).

3.2. The Bahamas Maritime Authority (BMA) is committed to ensuring that all Bahamian ships are fully compliant with international Convention requirements and national regulations at all times and fully supports the objectives of the PSC process in eliminating sub-standard shipping, when applied in a fair and equitable manner.

3.3. There are some causes for detention which are easily identified and are not acceptable to the BMA. In general terms, such items include those where:

- (i) Valid statutory certificates are not on board the ship, including **seafarer's documents/certificates;**
- (ii) Deficiencies/failures have not been reported to the BMA or Classification Society (Recognised Organisation) for agreed acceptance pending temporary arrangements in place;
- (iii) Any arrangement that bypasses essential safety or environmental **monitoring equipment (e.g. "magic pipes" bypassing Oily Water Separator/15ppm monitor);**
- (iv) Equipment has been poorly maintained and/or maintenance has been inappropriately documented or not documented within the shipboard maintenance system;
- (v) Crew are unfamiliar with essential equipment or systems they are responsible for (e.g. Oily Water Separator, ECDIS, GMDSS equipment, etc.)
- (vi) Equipment which requires Flag State/Classification Society approval has been fitted, modified or removed, or structural changes have been made without proper consultation with the Flag State/Classification Society/Recognised Organisation;

³ The "Company" is the entity responsible for the management of the ship in accordance with the ISM Code. For ships which the ISM Code is not applicable, the Company is the Managing Owner in accordance with Section 52 of the Bahamas Merchant Shipping Act.

- (vii) Critical equipment has not been subject to regular testing as required (e.g. emergency equipment such as fan dampers and emergency fire pump);
- (viii) Log books, record books, hours of rest records and other documents are incomplete or inaccurate. It should be noted that PSC authorities may in some cases instigate criminal proceedings for alleged falsification of records where records are incomplete or inaccurate (in particular for hours of rest records and Oil Record Books).

4. Notification after PSC Detention

4.1. The Company is required to immediately notify the following parties of any detention of a Bahamian registered ship:

- i. the BMA; and
- ii. the Recognised Organisation (i.e. Classification Society) that issued the affected certificate(s); and
- iii. the Recognised Organisation that issued the ISM Code Document of Compliance (DOC) and Safety Management Certificate (SMC); and
- iv. For security/ISPS Code related detentions: The Recognised Security Organisation that issued the International Ship Security Certificate (ISSC); and
- v. for Maritime Labour Convention (MLC) related detentions: The Recognised Organisation that issued the Maritime Labour Certificate.

4.2. In addition, the Company is required to invite the **ship's** Classification Society on board to assist in clearing the deficiencies, unless otherwise advised by the BMA.

4.3. The initial report to the BMA may be made by telephone or email.

4.4. The following documents are to be provided to the BMA at the earliest opportunity, where available:

- A full copy of the PSC report (Form A and B);
- A copy of the detention notice;
- Confirmation of notification to Classification Society and Recognised Organisations as appropriate;
- Advice of actions taken or planned to rectify all deficiencies at the earliest opportunity.

4.5. Good communications are essential to enable prompt resolution of matters related to PSC detention. It is important that the BMA receive the initial report promptly so that an assessment of the detention can be made. Subsequent action in section 5 below may be modified according to the **result of BMA's review of the initial report, particularly in cases where the detention may not be justified in the opinion of the BMA.**

5. Policy and Process after a Detention

5.1. *General*

5.1.1. Following notification of the detention, the BMA will review the reports and **correspondence related to the vessel's PSC and Bahamas inspection** performance in the 24 months prior to the detention.

5.1.2. The Company is required to perform a Root Cause Analysis (RCA) within 30 days of the date of detention, unless otherwise agreed with the BMA, and take the appropriate corrective and preventative actions to reduce the possibility of similar deficiencies arising in future.

5.1.3. The RCA report and details of corrective and preventative actions is to cover all deficiencies raised at the detention and should also include comments from the Master or Chief Engineer on the deficiencies, as applicable.

5.1.4. In addition to the requirements specified below, further additional surveys, Bahamas inspections, ISM audits (DOC and/or SMC), ISPS audits and/or MLC inspections may be required depending on the nature of the **detainable deficiencies and the ship's inspection history.**

5.1.5. The BMA will determine the scope and extent of additional inspections, surveys or audits of shipboard and shore-based safety management **systems of a Company, when a significant proportion of the Company's** fleet has been justifiably detained by PSC.

5.1.6. The BMA may appoint approved inspectors, auditors and observers as considered to be appropriate, to participate in any of the above surveys, **audits or inspections, at owners' expense.**

5.1.7. The BMA reserves the right to charge professional fees to the Company, at the current hourly rate, where significant periods of time are spent by the BMA in dealing with a PSC detention for a particular ship.

5.2. *Maritime Labour Convention detentions*

- 5.2.1. When a ship has been detained for a serious breach of the Maritime Labour Convention, 2006 in relation to non-payment or delayed payment of wages to seafarers, the BMA will require the Company (or Ship owner for the purposes of MLC, 2006 if different) to pay all wages due and provide documentary evidence confirming this, prior to the ship being released from detention.
- 5.2.2. In such cases, in order to prevent the same situation reoccurring, the BMA also requires the Company (or ship owner for the purposes of MLC, 2006, if different) to provide documentary evidence of timely payment of wages as they become due, for a period to be specified by the BMA after release from detention.

5.3. *First detention in a 24-month period*

- 5.3.1. One or more of the following may be required by the BMA prior to departure from the port of detention:
- Additional Bahamas Inspection; and/or
 - Additional external audit of the ISM SMC. At the discretion of the BMA, this requirement may be relaxed to an additional internal audit depending on the number and nature of the deficiencies found; and/or
 - Additional MLC inspection; and/or
 - Additional ISPS audit.
- 5.3.2. It should be noted that PSC authorities often require additional external audits before releasing the ship from detention. The BMA cannot waive this requirement.
- 5.3.3. If the detention occurs within the survey window for a related annual survey, the survey should be completed prior to the vessel sailing.
- 5.3.4. If the detention occurs within the survey window for a related renewal, periodical or intermediate survey, that survey should be conducted to the extent possible, except for Safety Equipment, Safety Radio and IOPP, which must be completed. Where a survey is incomplete, a schedule for completion of surveys at the next convenient port must be set by the Recognised Organisation and may not be delayed until the end of the window.

5.3.5. If the detention does not occur within any related survey window, the Recognised Organisation surveyor, after clearing the deficiencies, will carry out a general examination of the vessel and may decide, using his or her professional judgement, whether an additional survey is necessary. The extent of such additional survey will be at least to the extent of annual survey.

5.4. *Second detention in a 24-month period:*

5.4.1. If a ship has, in the opinion of the BMA, been justifiably detained twice within a period of 24 months the following shall be completed immediately in addition to the applicable requirements of 5.2:

- An additional ISM SMC audit to the extent of initial audit will be required to ascertain the effectiveness of the safety management system on board;
- An additional ISM DOC audit to the extent of annual audit will be required not later than 30 days from the date of the detention;
- **The vessel will be placed on the BMA's Enhanced Monitoring Programme (EMP).** Please refer to BMA Information Bulletin No.136.

5.5. *Third detention in a 24-month period*

5.5.1. If a ship has, in the opinion of the BMA, been justifiably detained three times within a period of 24 months, the ship will be specially examined to assess whether it remains acceptable for continued registration in The Bahamas. This may lead to owners being asked to find an alternative register or deletion of the ship from the Bahamas register.

5.5.2. The DOC of the Company will be re-examined and further surveys, inspections and audits of the Company and/or its ships may be required.

6. Audits by Recognised Organisations

6.1. Recognised Organisations, when conducting ISM audits, should take into account all deficiencies found in the course of the PSC inspection leading to detention.

6.2. The audit should identify any specific failure of the safety management system which may be attributed as a causal factor to the deficiencies arising.

6.3. The audit should also ensure that an appropriate corrective action plan is in place, which is to be implemented and verified within the shortest practicable time frame.

7. Disputing the outcome of a PSC Detention

7.1. The Master may feel that a detention is not justified. The Master may prefer to discuss the issue in the first instance, in a professional manner, with the PSCO.

Companies may take the view that a detention is not justified. In such cases the facts may be offered for appeal, complaint or review – please refer to Annex 1.

7.2. Where an appeal, complaint or review has been made, details will be **included in the BMA's report on the detention to IMO.**

7.3. The appeal procedure for ships detained by PSC in The Bahamas is provided at [Annex 3](#).

8. Code of Conduct for PSCOs

8.1. Standards of integrity, professionalism and transparency are expected of all PSCOs involved in or associated with PSC inspections. The Code of Practice for Port State Control Officers is available as IMO Circular MSC-MEPC.4/Circ.2 and is also available as Appendix 1 to IMO Assembly Resolution A.1119(30). In addition, several MOUs publish their own Code of Conduct.

8.2. The vast majority of PSC inspections are carried out in accordance with the Codes of Conduct. Regrettably, the BMA has been made aware of several instances where the Code of Conduct is not being followed in certain ports, in particular where PSCOs are alleged to have misused their authority for financial benefit.

8.3. Allegations of improper conduct by any PSCO should be reported by the Master to the BMA with full details of the allegation and any supporting information, such as witness statements, for further action. All such reports will be treated in confidence.

9. Revision History

Rev.4 (15 May 2018) – Complete revision

Rev.3 (07 October 2013) – General Revision

Annex 1 – Disputing a PSC Detention

1. General

- 1.1. PSC authorities generally have their own national appeal procedure, which should be provided to the Master with the notice of detention.
- 1.2. Time limits apply to each procedure. It should be noted that the time limits vary between MoUs and between PSC authorities within the same MoU.
- 1.3. Some PSC authorities have specific requirements for appeals, such as the Party that may make the appeal and the language to be used for the appeal.
- 1.4. Further details on these processes can be obtained from the websites of the relevant MoU in the first instance. A non-exhaustive summary of appeal procedures is provided in [Annex 2](#).
- 1.5. Appeal, complaint or review will not cause a detention to be suspended.

2. Appeal

- 2.1. An appeal is generally made by the Company, the Owner or the Master direct to the PSC authority involved to request re-consideration of the detainable deficiencies. Please refer to the detention appeal procedures for the PSC authority concerned.
- 2.2. The BMA is generally not involved in the formal appeal process but will provide a supporting statement on request for appeals where there are grounds to believe that the detention is not justified.
- 2.3. **Where the PSC authority's appeal procedure requires the appeal to be made by the flag State, the BMA will appeal only where the detention is considered unjustified or inappropriate in the circumstances. In these cases, the Company will be required to provide its consent to the appeal before the appeal is lodged.**
- 2.4. It should be noted that if an appeal is made against a detention to the Port State authority, this may exclude a subsequent review of the detention by the MoU concerned.

3. Complaint

- 3.1. In cases where no appeal is made, Companies may present a complaint to the BMA. The BMA may then approach the PSC authority to ask it to reconsider its position.
- 3.2. The BMA will proceed only in cases where the evidence supporting the complaint has sufficient merit. Companies will be expected to present a robust case to ensure that the complaint has the best chance of success.

4. Review

- 4.1. Upon receipt of a valid complaint, a request to review the detention may be made by the BMA to the local office of the PSC authority involved.
- 4.2. If the review is denied or fails, a further request for review may be made to the Central Office of the PSC authority involved, with copy to the relevant MoU Review Panel (where established; not all MoUs have a detention review panel).
- 4.3. If the Port State rejects the Flag State complaint but the Flag State holds its position that a detention was incorrectly applied, a final review may be carried out by a Review Panel set up by the relevant MoU.
- 4.4. The review panel considers the facts of the case and delivers an opinion which may lead to the Port State reconsidering its decision, however it should be noted that the Port State is under no obligation to reconsider.
- 4.5. The opinion of the Review Panel is not binding on the Port State and cannot be used in any claim for financial compensation.

Annex 2 – Summary of PSC detention appeal procedures

Country	Appeal shall be made by:					Languages for submission of appeal	Submitted by:			Deadline for submission (days)		Further Info
	Owner	ISM Manager	Master	Flag State	Class		Letter	Fax	Email	From date of release	From date of detention	
Algeria	X		X			Not specified	X				10	Mediterranean MoU Appeal Procedures
Angola												No information available
Antigua and Barbuda												No information available
Argentina												No information available
Aruba												No information available
Australia	X	X	X	X		English	X	X	X		28	Indian Ocean MoU Appeal Procedures Tokyo MoU Appeal Procedures
Bahamas	X	X	X	X		English	X		X		30	BMA Information Bulletin No.120, Annex 3
Bahrain												No information available
Bangladesh	X	X	X	X		English	X	X	X		30	Indian Ocean MoU Appeal Procedures
Barbados												No information available
Belgium	X		X			English	X				14	Paris MoU Appeal Procedures
Belize												No information available
Benin												No information available
Bolivia												No information available
Brazil												No information available

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Country	Appeal shall be made by:					Languages for submission of appeal	Submitted by:			Deadline for submission (days)		Further Info
	Owner	ISM Manager	Master	Flag State	Class		Letter	Fax	Email	From date of release	From date of detention	
Bulgaria	X	X	X	X	X	Bulgarian	X				14	Black Sea MoU Appeal Procedures Paris MoU Appeal Procedures
Cameroon												No information available
Canada	X		X			English or French	X	X	X		30	Paris MoU Appeal Procedures Tokyo MoU Appeal Procedures
Cape Verde												No information available
Cayman Islands												No information available
Chile	X	X	X			English	X					Tokyo MoU Appeal Procedures
China	X	X		X		English	X	X			60	Tokyo MoU Appeal Procedures
Colombia												No information available
Congo												No information available
Cote D'Ivoire												No information available
Croatia	X					English	X	X			15	Paris MoU Appeal Procedures
Cuba												No information available
Curacao												No information available

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Country	Appeal shall be made by:					Languages for submission of appeal	Submitted by:			Deadline for submission (days)		Further Info
	Owner	ISM Manager	Master	Flag State	Class		Letter	Fax	Email	From date of release	From date of detention	
Cyprus	X	X	X			English	X	X			2	Mediterranean MoU Appeal Procedures Paris MoU Appeal Procedures
Democratic Republic of Congo												No information available
Denmark	X					English	X	X	X		28	Paris MoU Appeal Procedures
Dominican Republic												No information available
Ecuador												No information available
Egypt	X	X	X	X	X	English or Arabic	X	X			42	Mediterranean MoU Appeal Procedures
Equatorial Guinea												No information available
Estonia	X					English	X	X			30	Paris MoU Appeal Procedures
Fiji	X	X	X			English	X	X	X	14	7	Tokyo MoU Appeal Procedures
Finland	X	X	X	X	X	English	X	X			14	Paris MoU Appeal Procedures
France	X	X	X			English or French	X	X			15	Indian Ocean MoU Appeal Procedures Paris MoU Appeal Procedures
Gabon												No information available
Georgia	X	X	X			English or Georgian	X				30	Black Sea MoU Appeal Procedures

Annex 2 – Summary of PSC detention appeal procedures

Country	Appeal shall be made by:					Languages for submission of appeal	Submitted by:			Deadline for submission (days)		Further Info
	Owner	ISM Manager	Master	Flag State	Class		Letter	Fax	Email	From date of release	From date of detention	
Germany	X	X		X		English	X	X	X		30	Paris MoU Appeal Procedures
Ghana												No information available
Greece	X	X				English	X	X			30	Paris MoU Appeal Procedures
Grenada												No information available
Guatemala												No information available
Guinea Bissau												No information available
Guinea Conakry												No information available
Guyana												No information available
Honduras												No information available
Hong Kong, China	X		X			English or Chinese	X	X	X		30	Tokyo MoU Appeal Procedures
Iceland	X					English	X	X			90	Paris MoU Appeal Procedures
India	X	X	X	X		English	X				30	Indian Ocean MoU Appeal Procedures
Indonesia												No information available
Ireland	X	X				English	X				7	Paris MoU Appeal Procedures
Islamic Republic of Iran	X		X	X		English	X	X	X		7	Indian Ocean MoU Appeal Procedures

Annex 2 – Summary of PSC detention appeal procedures

Country	Appeal shall be made by:					Languages for submission of appeal	Submitted by:			Deadline for submission (days)		Further Info
	Owner	ISM Manager	Master	Flag State	Class		Letter	Fax	Email	From date of release	From date of detention	
Italy	X	X		X	X	English or Italian	X	X	X		30	Paris MoU Appeal Procedures
Jamaica												No information available
Japan	X	X	X			English	X				90	Tokyo MoU Appeal Procedures
Kenya	X	X	X	X		English	X	X	X		28	Indian Ocean MoU Appeal Procedures
Kuwait												No information available
Latvia	X	X	X			English	X				30	Paris MoU Appeal Procedures
Lebanon	X	X	X	X	X	English or Arabic	X	X			42	Mediterranean MoU Appeal Procedures
Liberia												No information available
Lithuania	X	X	X			English	X				14	Paris MoU Appeal Procedures
Malaysia		X				English	X	X			90	Tokyo MoU Appeal Procedures
Malta	X	X				English	X				20	Mediterranean MoU Appeal Procedures Paris MoU Appeal Procedures
Marshall Islands	X	X		X		English	X	X			30	Tokyo MoU Appeal Procedures
Mauritania												No information available
Mexico												No information available

Annex 2 – Summary of PSC detention appeal procedures

Country	Appeal shall be made by:					Languages for submission of appeal	Submitted by:			Deadline for submission (days)		Further Info
	Owner	ISM Manager	Master	Flag State	Class		Letter	Fax	Email	From date of release	From date of detention	
Morocco	X		X			English or French or Arabic	X				15	Mediterranean MoU Appeal Procedures
Myanmar	X	X	X	X		English or Myanmar	X	X	X		14	Indian Ocean MoU Appeal Procedures
Namibia												No information available
Netherlands (BES Islands)												No information available
New Zealand	X	X	X			English	X	X	X		28	Tokyo MoU Appeal Procedures
Nigeria												No information available
Norway	X	X				English	X				21	Paris MoU Appeal Procedures
Oman	X	X	X	X		English or Arabic	X	X	X		10	Indian Ocean MoU Appeal Procedures
Oman												No information available
Panama												No information available
Papua New Guinea	X					English	X	X	X		30	Tokyo MoU Appeal Procedures
Peru	X	X	X			English	X	X	X		15	Tokyo MoU Appeal Procedures
Philippines	X					English	X	X	X			Tokyo MoU Appeal Procedures

Annex 2 – Summary of PSC detention appeal procedures

Country	Appeal shall be made by:					Languages for submission of appeal	Submitted by:			Deadline for submission (days)		Further Info
	Owner	ISM Manager	Master	Flag State	Class		Letter	Fax	Email	From date of release	From date of detention	
Poland	X		X			English or Polish	X				14	Paris MoU Appeal Procedures
Portugal	X	X		X	X	English	X	X	X		10	Paris MoU Appeal Procedures
Qatar												No information available
Republic of Korea	X	X	X			English	X	X			90	Tokyo MoU Appeal Procedures
Republic of South Africa	X	X	X	X		English	X	X	X		15	Indian Ocean MoU Appeal Procedures
Romania	X	X		X	X	English	X	X			15	Black Sea MoU Appeal Procedures Paris MoU Appeal Procedures
Russian Federation	X	X	X	X	X	English or Russian	X	X	X		30	Black Sea MoU Appeal Procedures Paris MoU Appeal Procedures Tokyo MoU Appeal Procedures
Sao Tome and Principe												No information available
Saudi Arabia												No information available
Senegal												No information available
Seychelles	X	X	X	X		English	X		X		14	Indian Ocean MoU Appeal Procedures
Sierra Leone												No information available

Annex 2 – Summary of PSC detention appeal procedures

Country	Appeal shall be made by:					Languages for submission of appeal	Submitted by:			Deadline for submission (days)		Further Info
	Owner	ISM Manager	Master	Flag State	Class		Letter	Fax	Email	From date of release	From date of detention	
Singapore	X	X	X	X		English	X	X			60	Tokyo MoU Appeal Procedures
Slovenia	X		X			Slovenian	X	X			15	Paris MoU Appeal Procedures
Spain	X					Spanish	X				30	Paris MoU Appeal Procedures
Sri Lanka	X	X	X	X		English	X	X	X		15	Indian Ocean MoU Appeal Procedures
St. Kitts and Nevis												No information available
Suriname												No information available
Sweden	X					English	X				21	Paris MoU Appeal Procedures
Thailand	X	X	X	X		English or Thai	X				15	Tokyo MoU Appeal Procedures
The Gambia												No information available
The Netherlands	X	X				English or Dutch	X	X			42	Paris MoU Appeal Procedures
Togo												No information available
Trinidad & Tobago												No information available
Turkey	X	X	X			English or Turkish	X	X			30	Black Sea MoU Appeal Procedures Mediterranean MoU Appeal Procedures

Annex 2 – Summary of PSC detention appeal procedures

Country	Appeal shall be made by:					Languages for submission of appeal	Submitted by:			Deadline for submission (days)		Further Info
	Owner	ISM Manager	Master	Flag State	Class		Letter	Fax	Email	From date of release	From date of detention	
Ukraine	X	X	X	X	X	English or Ukrainian or Russian	X	X			30	Black Sea MoU Appeal Procedures
United Arab Emirates												No information available
United Kingdom	X		X			English	X	X			21	Paris MoU Appeal Procedures
United States of America	X	X	X	X	X	English	X	X	X		30	Title 46, Code of Federal Regulations, Subpart 1.03
Uruguay												No information available
Vanuatu												No information available
Venezuela												No information available
Vietnam	X		X			English	X	X	X		90	Tokyo MoU Appeal Procedures

Annex 3 – Appeal Procedure for PSC Detentions in The Bahamas



The appeal shall be made by:	
Owner	X
ISM Operator	X
Master	X
Other: Flag State may appeal	X

The appeal shall be made to:	Address:
Managing Director and Chief Executive Officer The Bahamas Maritime Authority	Shirlaw House 226 Shirley Street PO Box N-4679 Nassau The Bahamas director@bahamasmaritime.com

Deadline for submission	Days
From notification of detention	30

Language		Submitted by:	
English	x	Letter	x
		Email	x

Other relevant information
<p>Appeal against the detention shall be made by the owner or its representative to the Director of the Bahamas Maritime Authority, not later than 30 days from the date of the detention.</p> <p>The appeal must contain evidence supporting the appeal, noting that the PSC decision is made in relation to the condition of the ship at the time of detention/deficiency.</p> <p>The lodging of an appeal shall not cause the detention to be suspended.</p>