

Notices of redelivery in a nutshell

The purpose of a notice of redelivery is to enable the owner to have enough time to fix the ship for her next employment. Usually the charter party will provide for example that “Charterers are to give Owners not less than 20/15/10/7 days *approximate* notice of vessels expected date of re-delivery, and probable port and 5/3/2/1 day(s) *definite* notice of redelivery”.

Does an approximate notice need to be accurate?

An “approximate redelivery notice” implies that there is no absolute obligation to redeliver on the approximate date given. An approximate redelivery notice is not contractually binding or a condition precedent to redelivery, unless the charter party and/or the notice state otherwise. On one hand, the approximate notice of redelivery does not need to be precise, however a certain degree of good faith is implied.

Owners will not be able to claim damages if the timing of such a notice is incorrect but was deemed reasonable at the time when the notice was issued. Many events can arise between the first notice (20 days in the above example) and the actual redelivery (port congestion etc.).

If charterers did not give the notice honestly and/or on reasonable grounds, and owners have suffered a loss as a result (e.g. the loss of a valuable fixture – see *The Niizuru* [1996]), they would have a prima facie claim against charterers for their loss. The practical question would be whether owners relied on the notice before it was withdrawn, and whether this caused them the loss of valuable chartering opportunities.

Can approximate notice be withdrawn unilaterally by charterers?

If charterers give the approximate notice given on a AGW, WP or WOG basis, English law states that parties are not bound by representations made “WP” or “WOG”.

As a result, if charterers tender a redelivery notice with reservations such as “AGW, WP, WOG”, owners subsequently fix the ship for her next employment but in contravention with this notice charterers then decide to employ her for another voyage (within the allowed charter period), owners will not be able to refuse such order nor claim damages for loss of profits for cancelling the next fixture (*The Zenovia* [2009]).

When receiving such notice from charterers, owners should insist on an unqualified notice for more protection.

Definite notices of redelivery

A “definite notice” will have to be correct and accurate. Any redelivery within a shorter time frame than the definite period will give right to damages to owners.

If charterers redeliver the ship within the time-frame permitted in the charter party but do not serve any notice or serve a shorter notice than required by the charter, owners are still obliged to take delivery of the ship. The breach will only occur on the date of redelivery and not before, even if it is obvious that charterers will be in breach.

The damages will be measured by putting owners in the position in which they would have been in had notice(s) been properly tendered (see *The Great Creation* [2014]).

This note is for general guidance only and should not be relied upon as legal advice. Should you require specific advice on a particular situation please contact the Club.

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