

EFFECTIVE DATE OF 2018 AMENDMENT

Amendment by Pub. L. 115-232 effective Feb. 1, 2019, with provision for the coordination of amendments and special rule for certain redesignations, see section 800 of Pub. L. 115-232, set out as a note preceding section 3001 of this title.

§ 8857. Duties of commanding officer of capturing vessel

(a) The commanding officer of a vessel making a capture shall—

(1) secure the documents of the captured vessel, including the log, and the documents of cargo, together with all other documents and papers, including letters, found on board;

(2) inventory and seal all the documents and papers;

(3) send the inventory and documents and papers to the court in which proceedings are to be had, with a written statement—

(A) that the documents and papers sent are all the papers found, or explaining the reasons why any are missing; and

(B) that the documents and papers sent are in the same condition as found, or explaining the reasons why any are in different condition;

(4) send as witnesses to the prize court the master, one or more of the other officers, the supercargo, purser, or agent of the prize, and any other person found on board whom he believes to be interested in or to know the title, national character, or destination of the prize, and if any of the usual witnesses cannot be sent, send the reasons therefor to the court; and

(5) place a competent prize master and a prize crew on board the prize and send the prize, the witnesses, and all documents and papers, under charge of the prize master, into port for adjudication.

(b) In the absence of instructions from higher authority as to the port to which the prize shall be sent for adjudication, the commanding officer of the capturing vessel shall select the port that he considers most convenient in view of the interests of probable claimants.

(c) If the captured vessel, or any part of the captured property, is not in condition to be sent in for adjudication, the commanding officer of the capturing vessel shall have a survey and an appraisal made by competent and impartial persons. The reports of the survey and the appraisal shall be sent to the court in which proceedings are to be had. Property so surveyed and appraised, unless appropriated for the use of the United States, shall be sold under authority of the commanding officer present. Proceeds of the sale shall be deposited with the Treasurer of the United States or in the public depository most accessible to the court in which proceedings are to be had and subject to its order in the cause.

(Aug. 10, 1956, ch. 1041, 70A Stat. 476, §7657; renumbered §8857, Pub. L. 115-232, div. A, title VIII, §807(d)(9), Aug. 13, 2018, 132 Stat. 1837.)

HISTORICAL AND REVISION NOTES

Table with 3 columns: Revised section, Source (U.S. Code), Source (Statutes at Large). Row 1: 7657, 34 U.S.C. 1133, R.S. 4615.

As does 34 U.S.C. 1133, the revised section reflects the Act of March 3, 1899, ch. 413, §13, 30 Stat. 1007, and the Act of May 29, 1920, ch. 214, §1, 41 Stat. 654, which, respectively, abolished the interest of captors in prize property and substituted "Treasurer of the United States or public depository" for "assistant treasurer of the United States".

AMENDMENTS

2018—Pub. L. 115-232 renumbered section 7657 of this title as this section.

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§ 8858. Duties of prize master

The prize master shall take the captured vessel to the selected port. On arrival he shall—

(1) deliver immediately to a prize commissioner the documents and papers and the inventory thereof;

(2) make affidavit that the documents and papers and the inventory thereof and the prize property are the same and are in the same condition as delivered to him, or explaining any loss or absence or change in their condition;

(3) report all information respecting the prize and her capture to the United States attorney;

(4) deliver the persons sent as witnesses to the custody of the United States marshal; and

(5) retain the prize in his custody until it is taken therefrom by process from the prize court.

(Aug. 10, 1956, ch. 1041, 70A Stat. 476, §7658; renumbered §8858, Pub. L. 115-232, div. A, title VIII, §807(d)(9), Aug. 13, 2018, 132 Stat. 1837.)

HISTORICAL AND REVISION NOTES

Table with 3 columns: Revised section, Source (U.S. Code), Source (Statutes at Large). Row 1: 7658, 34 U.S.C. 1134, R.S. 4617.

The word "diligently" is omitted as surplusage.

AMENDMENTS

2018—Pub. L. 115-232 renumbered section 7658 of this title as this section.

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Amendment by Pub. L. 115-232 effective Feb. 1, 2019, with provision for the coordination of amendments and special rule for certain redesignations, see section 800 of Pub. L. 115-232, set out as a note preceding section 3001 of this title.

§ 8859. Libel and proceedings by United States attorney

(a) Upon receiving the report of the prize master directed by section 8858 of this title, the United States attorney for the district shall promptly—

(1) file a libel against the prize property;

(2) obtain a warrant from the court directing the marshal to take custody of the prize property; and

(3) proceed to obtain a condemnation of the property.

(b) In connection with the condemnation proceedings the United States attorney shall insure that the prize commissioners—

- (1) take proper preparatory evidence; and
- (2) take depositions de bene esse of the prize crew and of other transient persons who know any facts bearing on condemnation.

(Aug. 10, 1956, ch. 1041, 70A Stat. 477, § 7659; renumbered § 8859 and amended Pub. L. 115-232, div. A, title VIII, §§ 807(d)(9), 809(a), Aug. 13, 2018, 132 Stat. 1837, 1840.)

HISTORICAL AND REVISION NOTES

<i>Revised section</i>	<i>Source (U.S. Code)</i>	<i>Source (Statutes at Large)</i>
7659	34 U.S.C. 1135.	R.S. 4618.

As does 34 U.S.C. 1135, the revised section reflects the Act of March 3, 1899, ch. 413, §13, 30 Stat. 1007, which repealed all laws authorizing distribution of prize proceeds to captors.

AMENDMENTS

2018—Pub. L. 115-232, §807(d)(9), renumbered section 7659 of this title as this section.

Subsec. (a). Pub. L. 115-232, §809(a), substituted “section 8858” for “section 7658” in introductory provisions.

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Amendment by Pub. L. 115-232 effective Feb. 1, 2019, with provision for the coordination of amendments and special rule for certain redesignations, see section 800 of Pub. L. 115-232, set out as a note preceding section 3001 of this title.

§ 8860. Duties of prize commissioners

One or more of the prize commissioners shall—

- (1) receive from the prize master the documents and papers of the captured vessel and the inventory thereof;
- (2) take the affidavit of the prize master required by section 8858 of this title;
- (3) take promptly, in the manner prescribed by section 8861 of this title, the testimony of the witnesses sent in;
- (4) take, at the request of the United States attorney, on interrogatories prescribed by the court, the depositions de bene esse of the prize crew and others;
- (5) examine and inventory the prize property;
- (6) apply to the court for an order to the marshal to unload the cargo, if this is necessary to that examination and inventory;
- (7) report to the court, and notify the United States attorney, whether any of the prize property requires immediate sale in the interest of all parties;
- (8) report to the court, from time to time, any matter relating to the condition, custody, or disposal of the prize property requiring action by the court;
- (9) return to the court sealed and secured from inspection—
 - (A) the documents and papers received, duly scheduled and numbered;
 - (B) the preparatory evidence;
 - (C) the evidence taken de bene esse; and
 - (D) their inventory of the prize property; and
- (10) report to the Secretary of the Navy, if, in their judgment, any of the prize property is

useful to the United States in the prosecution of war.

(Aug. 10, 1956, ch. 1041, 70A Stat. 477, § 7660; renumbered § 8860 and amended Pub. L. 115-232, div. A, title VIII, §§ 807(d)(9), 809(a), Aug. 13, 2018, 132 Stat. 1837, 1840.)

HISTORICAL AND REVISION NOTES

<i>Revised section</i>	<i>Source (U.S. Code)</i>	<i>Source (Statutes at Large)</i>
7660	34 U.S.C. 1138 (less applicability to procedure for interrogating witnesses).	R.S. 4622 (less applicability to procedure for interrogating witnesses).

The words “but the custody of the property shall be in the marshal only” are omitted as surplusage, since this fact is made clear in § 7662 of this title.

AMENDMENTS

2018—Pub. L. 115-232, §807(d)(9), renumbered section 7660 of this title as this section.

Par. (2). Pub. L. 115-232, §809(a), substituted “section 8858” for “section 7658”.

Par. (3). Pub. L. 115-232, §809(a), substituted “section 8861” for “section 7661”.

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§ 8861. Interrogation of witnesses by prize commissioners

Witnesses before the prize commissioners shall be questioned separately, on interrogatories prescribed by the court, in the manner usual in prize courts. Without special authority from the court, the witnesses may not see the interrogatories, documents, or papers, or consult with counsel or with other persons interested in the cause. Witnesses who have the rights of neutrals shall be discharged as soon as practicable.

(Aug. 10, 1956, ch. 1041, 70A Stat. 477, § 7661; renumbered § 8861, Pub. L. 115-232, div. A, title VIII, § 807(d)(9), Aug. 13, 2018, 132 Stat. 1837.)

HISTORICAL AND REVISION NOTES

<i>Revised section</i>	<i>Source (U.S. Code)</i>	<i>Source (Statutes at Large)</i>
7661	34 U.S.C. 1138 (as applicable to procedure for interrogating witnesses).	R.S. 4622 (as applicable to procedure for interrogating witnesses).

AMENDMENTS

2018—Pub. L. 115-232 renumbered section 7661 of this title as this section.

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§ 8862. Duties of marshal

The marshal shall—

- (1) keep in his custody all persons found on board a prize and sent in as witnesses, until they are released by the prize commissioners or the court;