

# THE MERCHANT SHIPPING (MARINE EQUIPMENT)

## LAW OF 2017

### LAW 23 (I)/2017<sup>1</sup>

*Official  
Journal of the  
European Union:  
L257/146  
28.08.2014.*

For the purposes of harmonisation with the European Union Act titled “Directive 2014/90/EU of the European Parliament and of the Council of 23 July on marine equipment and repealing Council Directive 96/98/EC”,

The House of Representatives enacts as follows:

#### PART I —INTRODUCTORY PROVISIONS

*Short  
title.*

1. The present Law shall be cited as The Merchant Shipping (Marine Equipment) Law of 2017.

*Interpretation.*

2. — (1) In this Law, unless the context otherwise requires—

“accreditation” means accreditation as defined in point 10 of Article 2 of Regulation (EC) No 765/2008;

“authorised representative” means any natural or legal person established within the Union who has received a written mandate from a manufacturer to act on its behalf in relation to specified tasks;

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<sup>1</sup> Editorial Note: *This Law was published in the Greek language in the Official Gazette of the Republic of Cyprus No. 4592, Supplement I(I), dated 13.3.2017. This is an “unofficial” translation into English prepared by the Department of Merchant Shipping and does not intend to replace any translation prepared by the Law Commissioner’s Office.*

*According to Article 3 of the Constitution of the Republic of Cyprus, the official languages of the Republic of Cyprus are Greek and Turkish and therefore the present translation into English is **not the authentic version. The authentic and therefore legally binding version, is the Greek version of this Law.***

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“Commission” means the European Commission;

“Competent Authority” means the Minister and any other person, generally or specially, authorised by him for the purpose by virtue of section 3;

“conformity assessment” means the process carried out by the notified bodies, in accordance with section 15, demonstrating whether marine equipment complies with the requirements laid down in this Law;

“conformity assessment body” means a body that performs conformity assessment activities including calibration, testing, certification and inspection;

"Cyprus ship" means a ship registered in the Register of Cyprus Ships and flying the flag of the Republic of Cyprus, pursuant to the provisions of the *Merchant Shipping (Registration of Ships, Sales and Mortgages) Laws of 1963 to 2005*, but does not include a ship which is registered in parallel, in any foreign register by virtue of sections 23N-23P of the same Laws;

45 of 1963  
32 of 1965  
82 of 1968  
62 of 1973  
102 of 1973  
45 of 1974  
42 of 1979  
25 of 1980  
14 of 1982  
57 of 1986  
64 of 1987  
28(I) of 1995  
37 (I) of 1996  
138(I) of 2003  
169(I) of 2004  
108(I) of 2005.

*Official  
Journal of the  
European Union:  
L 218/82,  
13.8.2008.*

“Decision no. 768/2008/EC” means the European Union Act titled “Decision No 768/2008/EC of the European Parliament and of the Council of 9 July 2008 on a common framework for the marketing of products, and repealing Council Decision 93/465/EEC” as amended or replaced from time to time;

“Directive 2014/90/EU” means the European Union Act titled “Directive 2014/90/EU of the European Parliament and of the Council of 23 July on marine equipment and repealing Council Directive 96/98/EC”;

"Director" means the Director of the Department of Merchant Shipping of the Ministry of Transport, Communications and Works and any other office of the Department of Merchant Shipping generally or specially, authorised by the Director for the purposes of enforcement of this Law and of market surveillance;

“distributor” means any natural or legal person in the supply chain, other than the manufacturer or the importer, who makes marine equipment available on the market;

“economic operators” means the manufacturer, the authorised representative, the importer and the distributor;

“EU declaration of conformity” means a statement issued by the manufacturer in accordance with section 16;

“IMO” means the International Maritime Organization;

“importer” means any natural or legal person established within the Union who places marine equipment from a third country on the Union market;

“international conventions” means the international conventions, together with their Protocols as ratified by the Republic, and the relevant codes, which have entered into force in the Republic, which lay down specific requirements for the approval by the Competent Authority of equipment to be placed on board ships as listed from time to time by an Order issued by the Minister and published in the Cyprus Government Gazette;

“international instruments” means the international conventions, together with the resolutions and circulars of the IMO giving effect to those conventions in their up-to-date version, and the testing standards;

“making available on the market” means any supply of marine equipment on the Union market in the course of a commercial activity, whether in return for payment or free of charge;

“manufacturer” means any natural or legal person who manufactures marine equipment or has marine equipment designed or manufactured, and markets that equipment under its name or trademark;

“marine equipment” means equipment falling within the scope of application of this Law in accordance with section 4;

“market surveillance authority” means the Director;

“Member State” means a Member State of the European Union or any other State which is a contracting party to the European Economic Area Agreement;

“Minister” means the Minister of Transport, Communication and Works of the Republic of Cyprus;

“national accreditation body” means the Cyprus Organisation for the Promotion of Quality as defined in section 4 of the *Standardisation, Accreditation and Technical Notification Law*, as amended or replaced from time to time;

156(I) of 2002  
10(I) of 2010  
57(I) of 2011  
69(I) of 2012  
120(I) of 2012.

"Notification" means a notification issued by the Competent Authority published in the Official Gazette of the Republic

“notifying authority” means the Competent Authority;

‘notified body’ means the organisation authorised to carry out conformity assessment tasks designated by the Competent Authority in accordance with section 17;

"operator of the ship" means the shipowner or any other organisation or person, such as the manager or the bareboat charterer, who has assumed the responsibility for operating the ship from the shipowner and who, on assuming such responsibility, has agreed to undertake all the duties and responsibilities which are imposed for the purposes of this Law and includes also a legal person;

“placing on the market” means the first making available of marine equipment on the Union market;

“product” means an item of marine equipment;

“recall” means any measure aimed at achieving the return of marine equipment that has already been placed on board Cyprus ships or EU ships or purchased with the intention of being placed on board Cyprus or EU ships;

*Official  
Journal of the  
European Union:  
L 218/30, 13.8.2008.*

“Regulation (EC) No 765/2008” means the European Union Act titled “Regulation (EC) No 765/2008 of the European Parliament and of the Council of 9 July 2008 setting out the requirements for accreditation and market surveillance relating to the marketing of products and repealing Regulation (EEC) No 339/93” as amended or replaced from time to time (OJ L 218, 13.8.2008, p. 30).

*Official  
Journal of the  
European Union:  
L 324/1  
29.11.2002.*

“Regulation (EC) No 2099/2002” means the European Union Act titled “Regulation (EC) No 2099/2002 of the European Parliament and of the Council of 5 November 2002 establishing a Committee on Safe Seas and the Prevention of Pollution from Ships (COSS)” as amended or replaced from time to time;

“Republic” means the Republic of Cyprus;

“testing standards” means the testing standards for marine equipment set by:

- (a) the International Maritime Organization (IMO),
- (b) the International Organization for Standardization (ISO),
- (c) the International Electrotechnical Commission (IEC),
- (d) the European Committee for Standardization (CEN),
- (e) the European Committee for Electrotechnical Standardization (Cenelec),

- (f) the International Telecommunication Union (ITU),
- (g) the European Telecommunications Standards Institute (ETSI),
- (h) the Commission, in accordance with Article 8 and Article 27(6) of Directive, 2014/90/EU,
- (i) the regulatory authorities recognised in the mutual recognition agreements to which the Union is a party; ·

“third country” means a country which is not a Member State of the European Union;

“wheel mark” means the symbol referred to in section 10 and set out in Annex I of Directive 2014/90/EU or, as appropriate, the electronic tag referred to in section 12;

“withdrawal” means any measure aimed at preventing marine equipment in the supply chain from being made available on the market”.

*Exercise of powers and execution of duties of State officers and officials.*

**3. - (1)** The Minister has the power to delegate in writing to any of the following, the exercise of any power, except the power of issuing orders and the execution of any duty provided or assigned to the Competent Authority, respectively, by this Law or by the Regulations issued thereunder:

- (a) the Director,
- (b) any other person serving at the Department of Merchant Shipping, of the Ministry of Transport, Communications and Works.

Provided that in case of such delegation, the Minister retains the power to exercise such delegated power and to execute such delegated duty, as from and during such delegation.

(2) A person to whom the exercise of power or the execution of a duty is delegated by virtue of subsection (1) has the obligation of exercising the power and executing the duty according to any instructions issued by the Minister.

(3) The Minister has the power to amend and revoke a delegation effected by virtue of subsection (1) by a written notice addressed to the person to whom the delegation had been effected.

(4) In case where, by virtue of this section, two or more persons simultaneously exercise the same power or execute the same duty, the hierarchically subordinate of the said persons takes the appropriate measures so that he will not exercise the power or will not execute the duty on the same real facts with his hierarchically superior, unless the latter will permit so and in accordance with instructions of the latter.

(5) In case where, by virtue of this section, a person exercises power or executes a duty that this Law or the regulations issued thereunder provide or assign respectively to another person, this Law and the regulations issued thereunder, apply as if the said power had been explicitly provided to the person that is exercising the power and the said duty had been explicitly assigned to the person executing it.

*Scope of application.*

**4.** – (1) The present Law applies to equipment placed or to be placed on board a Cyprus ship and for which the approval of the Competent Authority is required by the international instruments, regardless of whether the ship is situated in the Union at the time when it is fitted with the equipment.

(2) Notwithstanding the fact that the equipment referred to in subsection (1) may also fall within the scope of other legislation other than this Law, that equipment shall, for the purpose set out in subsection (1), be subject only to this Law.

*Requirements for marine equipment.*

**5.**– (1) Marine equipment that is placed on board a Cyprus ship on or after the 18<sup>th</sup> September 2016 shall meet the design, construction and performance requirements of the international instruments as applicable at the time when that equipment is placed on board.

(2) Compliance of marine equipment with the requirements referred to in subsection (1) shall be demonstrated solely in accordance with the testing standards and by means of the conformity assessment procedures referred to in section 15.

(3) The international instruments shall apply, without prejudice to the conformity checking procedure set out in Article 5 of Regulation

(EC) No 2099/2002 of the European Parliament and of the Council.

*Compliance of marine equipment with this Law, the international conventions, the international instruments.*

**6.** – (1) When the Competent Authority issues, endorses or renews the certificates of Cyprus ships as required by the international conventions, it shall ensure that the marine equipment on board those ships complies with the requirements of this Law.

(2) The Competent Authority shall take the necessary measures to ensure that marine equipment on board Cyprus ships complies with the requirements in the international instruments which are applicable to equipment already placed on board.

*Functioning of the internal market.*

**7.** The Competent Authority shall not prohibit the placing on the market or the placing on board a Cyprus ship of marine equipment which complies with this Law, nor refuse to issue the certificates relating thereto to the Cyprus ships, or to renew the said certificates.

*Transfer of ship to the Register of Cyprus Ships.*

**8.** – (1) In the case of a non-EU ship which is to be transferred to the Cyprus flag, that ship shall, during transfer, be subject to inspection by the Competent Authority to verify that the actual condition of its marine equipment corresponds to its safety certificates and either complies with this Law and bears the wheel mark or is equivalent, to the satisfaction of the Competent Authority, to marine equipment certified in accordance with this Law.

(2) In case where the date of installation on board of marine equipment cannot be established, the Competent Authority may determine satisfactory requirements of equivalence, taking into account relevant international instruments.

(3) Unless the equipment either bears the wheel mark or the Competent Authority considers it to be equivalent, it shall be replaced.

(4) (a) Marine equipment which is considered equivalent pursuant to this section shall be issued with a certificate by the Competent Authority which shall at all times be carried with the equipment.

(b) That certificate shall give the Competent Authority's permission for the equipment to be retained on board the ship and impose any restrictions or lay down any provisions relating to the use of the equipment.



## PART II- THE WHEEL MARK

*The wheel mark.*

**9.** – (1) Marine equipment the compliance of which with the requirements laid down in this Law has been demonstrated in accordance with the relevant conformity assessment procedures shall have the wheel mark affixed to it.

(2) The wheel mark shall not be affixed to any other product.

(3) The form of the wheel mark to be used shall be as set out in Annex I of Directive 2014/90/EU.

(4) The use of the wheel mark shall be subject to the general principles set out in paragraphs 1 and 3 to 6 of Article 30 of Regulation (EC) No 765/2008, where any reference to the CE marking shall be construed as a reference to the wheel mark.

*Rules and conditions for affixing the wheel mark.*

**10.** – (1)(a) The wheel mark shall be affixed visibly, legibly and indelibly to the product or to its data plate and, where relevant, embedded in its software.

(b) Where that is not possible or not warranted on account of the nature of the product, it shall be affixed to the packaging and to the accompanying documents.

(2) The wheel mark shall be affixed at the end of the production phase.

(3) The wheel mark shall be followed by the identification number of the notified body, where that body is involved in the production control phase, and by the year in which the mark is affixed.

(4) The identification number of the notified body shall be affixed by the body itself or, under its instructions, by the manufacturer or the manufacturer's authorised representative.

*Electronic tag.*

**11.** – (1) In order to facilitate market surveillance and prevent the counterfeiting of specific items of marine equipment referred to in paragraph 3 of Article 11 of Directive 2014/90/EU, manufacturers may use an appropriate and reliable form of electronic tag instead of,

or in addition to, the wheel mark. In such a case, sections 9 and 10 of this Law shall apply, as appropriate, *mutatis mutandis*.

(2) For the equipment identified in accordance with paragraph 3 of Article 11 of Directive 2014/90/EU, the wheel mark may, within three years after the date of adoption of the appropriate technical criteria referred to in paragraph 4 of Article 11 of Directive 2014/90/EU, be supplemented by an appropriate and reliable form of electronic tag.

(3) For the equipment identified in accordance with paragraph 3 of Article 11 of Directive 2014/90/EU, the wheel mark may be replaced, five years after the date of adoption of the appropriate technical criteria referred to in paragraph 4 of Article 11 of Directive 2014/90/EU, by an appropriate and reliable form of electronic tag.

### **PART III- OBLIGATIONS OF ECONOMIC OPERATORS**

*Obligations of manufacturers.*

**12.** – (1) By affixing the wheel mark, manufacturers shall take on responsibility for guaranteeing that the marine equipment to which the mark is affixed has been designed and manufactured in accordance with the technical specifications and standards implemented in accordance with Article 35(2) of Directive 2014/90/EU, and shall assume the obligations laid down in paragraphs 2 to 9 of this section.

(2) Manufacturers shall draw up the required technical documentation and have the applicable conformity assessment procedures carried out.

(3) Where the compliance of marine equipment with the applicable requirements has been demonstrated by the conformity assessment procedure, manufacturers shall draw up an EU declaration of conformity in accordance with section 16 and affix the wheel mark in accordance with sections 9 and 10.

(4) Manufacturers shall keep the technical documentation and the EU declaration of conformity referred to in section 16 for at least ten years after the wheel mark has been affixed and in no case for a period shorter than the expected life of the marine equipment concerned.

(5)(a) Manufacturers shall ensure that procedures are in place for series production to remain in conformity.

(b) Changes in marine equipment design or characteristics and changes in the requirements in the international instruments as referred to in section 5, on the basis of which conformity of marine equipment is declared, shall be taken into account. When necessary in accordance with Annex II of Directive 2014/90/EU, manufacturers shall have a new conformity assessment carried out.

(6) Manufacturers shall ensure that their products bear a type, batch or serial number or other element allowing their identification, or, where the size or nature of the product does not allow it, that the required information is provided on the packaging or in a document accompanying the product or both, as appropriate.

(7) Manufacturers shall indicate their name, registered trade name or registered trade mark and the address at which they can be contacted on the product or, where that is not possible, on its packaging or in a document accompanying the product or both, as appropriate. Provided that the address must indicate a single point at which the manufacturer can be contacted.

(8) Manufacturers shall ensure that the product is accompanied by instructions and all necessary information for safe installation on board and safe use of the product, including limitations of use, if any, that can be easily understood by the users, together with any other documentation required by the international instruments or testing standards.

(9)(a) Manufacturers who consider or have reason to believe that a product to which they have affixed the wheel mark is not in conformity with the applicable design, construction and performance requirements and with the testing standards implemented in accordance with Article 35(2) and (3) of Directive 2014/90/EU, shall immediately take the necessary corrective measures to bring that product into conformity, to withdraw it or to recall it, if appropriate.

(b) In addition, where the product presents a risk, manufacturers shall immediately inform the Competent Authority giving details, in particular, of the non-compliance and of any corrective measures taken.

(10)(a) Manufacturers shall, further to a reasoned request from the Competent Authority, promptly provide it with all the information and documentation necessary to demonstrate the conformity of the product, in the Greek or English language, grant to the Competent Authority access to their premises for market surveillance purposes in accordance with Article 19 of Regulation (EC) No 765/2008 and provide samples or access to samples in accordance with section 25(4) of this Law.

(b) Manufacturers shall cooperate with the Competent Authority, at its request, on any action taken to eliminate the risks posed by products which they have placed on the market.

*Authorised  
representatives.*

**13.** – (1) A manufacturer who is not located in the territory of at least one Member State shall, by a written mandate, appoint an authorised representative for the Union and shall indicate in the mandate the name of the authorised representative and the address at which it can be contacted.

(2) Fulfilment of the obligations laid down in section 12(1) and the drawing-up of technical documentation shall not form part of the authorised representative's mandate.

(3) An authorised representative shall perform the tasks specified in the mandate received from the manufacturer and the mandate shall allow the authorised representative to do at least the following:

(a) keep the EU declaration of conformity and the technical documentation at the disposal of national surveillance authorities for at least ten years after the wheel mark has been affixed and in no case for a period shorter than the expected life of the marine equipment concerned;

(b) further to a reasoned request from the Competent Authority, provide it with all the information and documentation necessary to demonstrate the conformity of a product;

(c) cooperate with the Competent Authority, at its request, on any action taken to eliminate the risks posed by products covered by its mandate.

*Other economic operators.*

**14.** – (1) Importers shall indicate their name, registered trade name or registered trade mark and the address at which they can be contacted on the product or, where that is not possible, on its packaging or in a document accompanying the product or both, as appropriate.

(2)(a) Importers and distributors shall, further to a reasoned request from the Competent Authority, provide it with all the information and documentation necessary to demonstrate the conformity of a product in the Greek or English language.

(b) Importers shall cooperate with the Competent Authority, at its request, on any action taken to eliminate the risks posed by products which they have placed on the market.

(3) An importer or distributor shall be considered a manufacturer for the purposes of this Law and shall be subject to the obligations of the manufacturer under section 12, where it places marine equipment on the market or on board an EU ship under its name or trademark or modifies marine equipment already placed on the market in such a way that compliance with the applicable requirements may be affected.

(4) For a period of at least ten years after the wheel mark has been affixed and in no case for a period shorter than the expected life of the marine equipment concerned, economic operators shall, on request, identify the following to the market surveillance authority:

(a) any economic operator who has supplied them with a product;

(b) any economic operator to whom they have supplied a product.

#### **PART IV – CONFORMITY ASSESSMENT AND NOTIFICATION OF CONFORMITY ASSESSMENT BODIES**

*Conformity assessment procedures.*

**15.** – (1) The conformity assessment procedures shall be as set out in Annex II of Directive 2014/90/EU.

(2) The Competent Authority shall ensure that the manufacturer or the manufacturer's authorised representative has the conformity assessment carried out, through a notified body, for a specific item of

marine equipment, from among one of the following procedures:

- (a) where the EC type-examination (module B) is to be used, before being placed on the market, all marine equipment shall be subject to:
  - production-quality assurance (module D); or
  - product-quality assurance (module E); or
  - product verification (module F);
- (b) where sets of marine equipment are produced individually or in small quantities and not in series or in mass, the conformity assessment procedure may be the EC unit verification (module G).

*EU declaration of conformity.*

**16.** – (1) The EU declaration of conformity shall state that the fulfillment of the requirements laid down in accordance with section 5 has been demonstrated.

(2)(a) The EU declaration of conformity shall follow the model structure set out in Annex III to Decision No 768/ 2008/EC.

(b) The EU declaration of conformity shall contain the elements specified in the relevant modules set out in Annex II to Directive 2014/90/EU and shall be kept up to date.

(3) By drawing up the EU declaration of conformity, the manufacturer shall assume the responsibility and the obligations referred to in section 12(1).

(4) When marine equipment is placed on board a Cyprus ship, a copy of the EU declaration of conformity covering the equipment concerned shall be provided to the ship, and shall be kept on board until the said equipment is removed from the ship and shall be translated by the manufacturer into the Greek or English language.

(5) A copy of the EU declaration of conformity shall be provided to the notified body or to the bodies which carried out the relevant conformity assessment procedures.

*Notification of conformity assessment bodies.*

**17.** – (1) The notifying authority shall, by means of the information system made available by the Commission for that purpose, notify the Commission and the other Member States of bodies authorised to carry out conformity assessment tasks under this Law.

(2) The notified bodies shall comply with the requirements laid down in Annex III of Directive 2014/90/EU.

*Notifying authority.*

**18.** – (1) The notifying authority shall be responsible for setting up and carrying out the necessary procedures for the assessment and notification of conformity assessment bodies.

(2) Notified bodies shall be monitored at least every two years and the Commission may choose to participate as an observer in the monitoring exercise.

(3) The assessment and monitoring referred to in subsection (1) are to be carried out by the Cyprus Organisation for the Promotion of Quality, which operates as the national accreditation body.

(4)(a) Where the notifying authority delegates or otherwise entrusts the assessment, notification or monitoring referred to in subsection (1) to a body which is not a governmental entity, that body shall be a legal entity and shall comply *mutatis mutandis* with the requirements laid down in Annex V of Directive 2014/90/EU.

(b) In addition to the requirements of paragraph (a), such body shall have in place arrangements to cover liability arising out of its activities.

(5) The notifying authority shall take full responsibility for the tasks performed by the body referred to in subsection (4).

(6) The notifying authority shall comply with the requirements laid down in Annex V of Directive 2014/90/EU..

*Information obligation on notifying authority.*

**19.** The notifying authority shall inform the Commission of its procedures for the assessment and notification of conformity assessment bodies and the monitoring of such bodies, and of any changes thereto.

*Subsidiaries of, and subcontracting by, notified bodies.*

**20.**–(1) Where a notified body subcontracts specific tasks connected with conformity assessment or has recourse to a subsidiary, it shall ensure that the subcontractor or the subsidiary meets the requirements set out in Annex III of Directive 2014/90/EU and shall inform the notifying authority accordingly.

(2) Notified bodies shall take full responsibility for the tasks performed by subcontractors or subsidiaries wherever these are established.

(3) Activities may be subcontracted or carried out by a subsidiary only with the agreement of the client.

(4) Notified bodies shall keep at the disposal of the notifying authority the relevant documents concerning the assessment of the qualifications of the subcontractor or the subsidiary and the work carried out by such subcontractor or subsidiary under this Law.

*Changes to notifications.*

**21.**–(1)(a) Where the notifying authority has ascertained, or has been informed, that a notified body no longer meets the requirements laid down in Annex III of Directive 2014/90/EU, or that it is failing to fulfill its obligations under this Law, the notifying authority shall restrict, suspend or withdraw the notification as appropriate, depending on the seriousness of the failure to meet those requirements or fulfill those obligations.

(b) The notifying authority shall, by means of the information system made available by the Commission for that purpose, immediately inform the Commission and the other Member States accordingly

(2) In the event of restriction, suspension or withdrawal of notification, or where the notified body has ceased its activity, the notifying authority shall take appropriate steps to ensure that the files of that body are either processed by another notified body or kept available for the responsible notifying and market surveillance authorities at their request.

*Challenges to the competence of notified bodies.*

**22.** – (1) The notifying authority shall provide the Commission, on request, with all information relating to the basis for the notification or the maintenance of the competence of the body concerned, where the Commission doubts, based on the information available to it or brought to its attention, the competence of a notified body or the continued fulfillment by a notified body of the requirements and responsibilities to which it is subject.

(2) Where the Commission ascertains that a notified body does not meet, or no longer meets, the requirements for its notification, it shall without delay inform the notifying Member State accordingly and request it to take the necessary corrective measures without delay,



including de-notification if necessary.

*Operational obligations of notified bodies.*

**23.** – (1) Notified bodies shall carry out conformity assessments or have them carried out in accordance with the procedures provided for in section 15 of this Law.

(2) Where a notified body finds that the obligations laid down in section 12 of this Law have not been met by a manufacturer, it shall require that manufacturer to take appropriate corrective measures without delay and shall not issue a conformity certificate.

(3)(a) Where, in the course of monitoring conformity following the issue of a conformity certificate, a notified body finds that a product no longer complies, it shall require the manufacturer to take appropriate corrective measures without delay and shall suspend or withdraw the certificate if necessary.

(b) Where corrective measures are not taken or do not have the required effect, the notified body shall restrict, suspend or withdraw the certificate, as appropriate.

*Obligation of notified bodies to provide information.*

**24.** – (1) Notified bodies shall inform the notifying authority of the following:

(a) any refusal, restriction, suspension or withdrawal of a conformity certificate;

(b) any circumstances affecting the scope of, and the conditions for, notification;

(c) any request for information which they have received from the market surveillance authority or market surveillance authorities of other Member States regarding conformity assessment activities;

(d) on request, conformity assessment activities performed within the scope of their notification and any other activity performed, including cross-border activities and subcontracting.

(2)(a) Notified bodies shall provide the Commission, the notifying

authority and the Competent Authority, on request, with relevant information concerning issues relating to negative and positive conformity assessment results.

(b) Notified bodies shall provide the other notified bodies carrying out conformity assessment activities covering the same products with information concerning negative and, on request, positive conformity assessment results.

#### **PART V- UNION MARKET SURVEILLANCE, CONTROL OF PRODUCTS, SAFEGUARD PROVISIONS**

*EU market surveillance framework.*

**25.** – (1) As regards marine equipment, the market surveillance authority shall undertake market surveillance in accordance with the EU market surveillance framework laid down in Chapter III of Regulation (EC) No 765/2008, subject to subsections (2) and (3) of this section.

(2) National market surveillance infrastructures and programs shall take into account the specific features of the marine equipment sector, including the various procedures carried out as part of the conformity assessment, and in particular the responsibilities placed on the Competent Authority by the international conventions..

(3)(a) Market surveillance may include documentary checks as well as checks of marine equipment which bears the wheel mark, whether or not it has been placed on board ships.

(b) Checks of marine equipment already placed on board shall be limited to such examination as can be carried out while the equipment concerned remains fully functional on board.

(4) Where the market surveillance authority intends to carry out sample checks, it may, when it is reasonable and practicable to do so, request the manufacturer to make the necessary samples available or to give on-the-spot access to the samples at the manufacturer's own cost.

*Procedure for dealing with marine equipment presenting a risk at a national level.*

**26.** – (1) (a) Where the market surveillance authority has sufficient reason to believe that marine equipment covered by this Law presents a risk to maritime safety, to health or to the environment, it shall carry out an evaluation in relation to the marine equipment concerned covering all the requirements laid down in this Law and the relevant economic operators shall cooperate as necessary with the market surveillance authority.

(b) Where, in the course of that evaluation, the market surveillance authority find that the marine equipment does not comply with the requirements laid down in this Law, it shall without delay require the relevant economic operator to take all appropriate corrective actions to bring the marine equipment into compliance with those requirements, to withdraw the marine equipment from the market, or to recall it within such reasonable period, commensurate with the nature of the risk, as it may prescribe.

Provided that Article 21 of Regulation (EC) No 765/2008 shall apply to the measures taken.

(c) The market surveillance authority shall inform the relevant notified body accordingly

(2) Where the market surveillance authority consider that non-compliance is not restricted to the Republic or to Cyprus ships, it shall inform the Commission and the other Member States, by means of the information system made available by the Commission for market surveillance purposes, of the results of the evaluation carried out under subsection (1) and of the actions which they have required the economic operator to take.

(3) The economic operator shall ensure that all appropriate corrective action is taken in respect of all the products concerned that it has made available on the market throughout the Union or, as the case may be, placed or delivered to be placed on board EU ships.

(4)(a) Where the relevant economic operator does not take adequate corrective action within the period prescribed by the market surveillance authorities in accordance with the paragraph (b) of subsection (1), or otherwise fails to meet its obligations under this Law, the market surveillance authority shall take all appropriate provisional measures to prohibit or restrict the marine equipment

being made available on the market of the Republic or placed on board Cyprus ships , to withdraw the product from that market or to recall it.

(b) The market surveillance authority shall inform the Commission and the other Member States, without delay, of those measures.

(5) The information on the measures taken by the market surveillance authority referred to in subsection (4) shall include all available details, in particular the data necessary for the identification of the non-compliant marine equipment, the origin of the product, the nature of the alleged non-compliance and the risk involved, the nature and duration of the national measures taken and the arguments put forward by the economic operator concerned and in particular, the market surveillance authority shall indicate whether the non-compliance is due to either:

- (a) failure of the marine equipment to comply with the applicable design, construction and performance requirements as laid down pursuant to section 5 of this Law;
- (b) non-compliance with the testing standards referred to in section 5 of this Law during the conformity assessment procedure;
- (c) shortcomings in those testing standards.

(6) The market surveillance authority, in case a Member State has initiated the procedure of subsection (4), shall without delay inform the Commission and the other Member States of any measures adopted and of any additional information at its disposal relating to the non-compliance of the marine equipment concerned, and, in the event of disagreement with the notified national measure, of its objections.

(7) Where, within four months of receipt of the information concerning the measures taken by the market surveillance authority, as referred to in subsection (4), no objection has been raised by a Member State or by the Commission in respect of a provisional measure taken by the market surveillance authority, that measure shall be deemed justified.

(8) The market surveillance authority shall ensure that appropriate restrictive measures in respect of the marine equipment concerned,

such as withdrawal of the product from market of the Republic, are taken without delay.

*EU safeguard procedure.*

**27.** – (1) Where, on completion of the procedure set out in subsections (3) and (4) of section 26, objections are raised against a measure taken by the market surveillance authority, or where the Commission considers that the Cyprus national measure may be contrary to Union legislation, the Commission shall without delay evaluate the relevant national measure in accordance with Article 27 of Directive 2014/90/EU.

(2) Where the Commission is satisfied that the Cyprus national measure is appropriate, the market surveillance authority shall take the measures necessary to ensure that the non-compliant marine equipment is withdrawn from the market of the Republic, and, where necessary, recalled and shall inform the Commission accordingly.

(3) If the relevant national measure is considered unjustified, then it is withdrawn.

*Compliant products which present a risk to maritime safety, to health or to the environment.*

**28.** – (1) Where, having performed an evaluation under section 26(1), the Competent Authority finds that marine equipment which is in compliance with this Law nevertheless presents a risk to maritime safety, to health or to the environment, it shall require the economic operator concerned to take all appropriate measures to ensure that the marine equipment concerned, when placed on the market, no longer presents that risk, or to withdraw the marine equipment from the market or to recall it within such reasonable period, commensurate with the nature of the risk, as it may prescribe.

(2) The economic operator shall ensure that corrective action is taken in respect of all the products concerned that it has made available on the market throughout the Union or placed on board EU ships.

(3)(a) The Competent Authority shall immediately inform the Commission and the other Member States.

(b) The information provided shall include all available details, in particular the data necessary for the identification of the marine equipment concerned, the origin and the supply chain of the marine equipment, the nature of the risk involved and the nature and duration of the Cyprus national measures taken.

*Formal non-compliance.*

**29.** – (1) Without prejudice to section 26 of this Law, where the Competent Authority makes one of the following findings, it shall require the relevant economic operator to put an end to the non-compliance concerned:

- (a) the wheel mark has been affixed in violation of sections 9 or 10;
- (b) the wheel mark has not been affixed;
- (c) the EU declaration of conformity has not been drawn up;
- (d) the EU declaration of conformity has not been drawn up correctly;
- (e) technical documentation is either not available or not complete;
- (f) the EU declaration of conformity has not been sent to the ship.

(2) Where the non-compliance referred to in subsection (1) persists, the Competent Authority shall take all appropriate measures to restrict or to prohibit the marine equipment being made available on the market or to ensure that it is recalled or withdrawn from the market.

*Exemptions based on technical innovation.*

**30.** – (1) In exceptional circumstances of technical innovation, the Competent Authority may permit marine equipment which does not comply with the conformity assessment procedures to be placed on board a Cyprus ship if it is established by trial or otherwise to its satisfaction that such equipment meets the objectives of this Law.

(2) The trial procedures shall in no way discriminate between marine equipment produced in the Republic and marine equipment produced in other States.

(3) Marine equipment covered by this section shall be given a certificate by the Competent Authority which shall at all times be carried with the equipment and which gives the Competent Authority's permission for the equipment to be placed on board the Cyprus ship and imposes any restrictions or lays down any

provisions relating to the use of the equipment.

(4) Where the Competent Authority allows marine equipment covered by this section to be placed on board a Cyprus ship, the Competent Authority shall forthwith communicate the particulars thereof together with the reports of all relevant trials, assessments and conformity assessment procedures to the Commission and to the other Member States.

(5) Within twelve months of receipt of the communication referred to in subsection (4), the Commission, if it considers that the conditions laid down in subsection (1) are not met, may require the Competent Authority to withdraw the permission granted within a specified deadline.

(6) Where a Cyprus ship with marine equipment on board which is covered by subsection (1) is transferred to another Member State, the receiving flag Member State may take the necessary measures, which may include tests and practical demonstrations, to ensure that the equipment is at least as effective as equipment which does comply with the conformity assessment procedures.

*Exemptions  
for testing or  
evaluation.*

**31.** – (1) The Competent Authority may permit marine equipment which does not comply with the conformity assessment procedures or which is not covered by section 30 of this Law to be placed on board a Cyprus ship for reasons of testing or evaluation, if the following cumulative conditions are complied with:

- (a) the marine equipment shall be given a certificate by the Competent Authority which shall at all times be carried with the equipment, state that Competent Authority's permission for the equipment to be placed on board the Cyprus ship, impose all necessary restrictions and lay down any other appropriate provisions as regards the use of the equipment concerned;
- (b) the permission shall be limited to the period considered by the Competent Authority as being necessary to complete the testing, which should be as short as possible;
- (c) the marine equipment shall not be relied on (used) in place of equipment which meets the requirements of this Law and shall not replace such equipment, which shall remain on board the Cyprus ship in working order and ready for immediate use.

*Exemptions in exceptional circumstances.*

**32.** – (1) In exceptional circumstances, which shall be duly justified to the Competent Authority, when marine equipment needs to be replaced in a port outside the Union where it is not practicable in terms of reasonable time, delay and cost to place on board equipment which bears the wheel mark, other marine equipment may be placed on board subject to subsections (2) to (4).

(2) The marine equipment placed on board shall be accompanied by documentation issued by a Member State of the IMO which is a party to the relevant conventions, certifying compliance with the relevant IMO requirements.

(3) The Competent Authority shall be informed at once of the nature and characteristics of such other marine equipment.

(4) The Competent Authority shall, at the earliest opportunity, ensure that the marine equipment referred to in subsection (1), along with its testing documentation, complies with the relevant requirements of the international instruments and of this Law.

(5) Where it has been demonstrated that specific marine equipment bearing the wheel mark is not available on the market, the Competent Authority may authorise other marine equipment to be placed on board, subject to subsections (6) to (8).

(6) The authorised marine equipment shall comply, as much as possible, with the requirements and testing standards referred to in section 5 of this Law.

(7) The marine equipment placed on board shall be accompanied by an interim certificate of approval issued by the Competent Authority or by another Member State, stating the following:

- (a) the equipment bearing the wheel mark which the certified equipment is due to replace;
- (b) the exact circumstances under which the certificate of approval has been issued, and in particular the unavailability in the market of equipment bearing the wheel mark;
- (c) the exact design, construction and performance requirements against which the equipment has been approved by the



certifying Member State;

- (d) the testing standards applied, if any, in the relevant approval procedures.

(8) The Competent Authority when issuing an interim certificate of approval, it shall inform the Commission forthwith accordingly and if the Commission considers that the conditions of subsections (6) and (7) have not been met, it may require the Competent Authority to revoke that certificate or take other appropriate measures.

## PART VI- FINAL PROVISIONS

*Coordination of notified bodies.*

**33.** The Competent Authority shall ensure that the notified bodies participate in the work of the sectoral group, directly or by means of designated representatives, which is bestowed by the Commission.

*Obligation to communicate to the Commission the particulars of the competent authorities of the Republic.*

**34.** The Competent Authority shall, by means of the information system made available by the Commission for that purpose, notify to the Commission the name and contact details of the authorities of the Republic in charge of the implementation of this Law.

*Prohibition of sailing (Detention).*

**35.**-(1) From the date of entry into force of this Law, the Competent Authority may prohibit the sailing of the ships (detain the ships) to which the present Law applies, if such ships do not comply with the requirements of subsection (1) of section 5, subsection (2) of section 6 and subsection (3) of section 8, of this Law and any Regulations issued hereunder.

(2) Where during the inspection the Competent Authority ascertains a contravention of the provisions prescribed in subsection (1), it shall proceed with a verification of the contravention, compose a relevant report, call the master of the ship to a plea and may prohibit the sailing of the ship until it is ensured that the cause of non-compliance has been rectified, and, where applicable, any imposed administrative fine has been paid, as prescribed by section 36.

Provided that the Competent Authority may allow the ship concerned to sail to the next port of call for the purposes of rectifying the non-compliance cause, provided that the navigability of ship remains unaffected.

(3) All costs relating to inspections for ensuring the rectification of the contravention shall be charged to the ship and shall be payable before the lifting of the prohibition of sail.

(4) During the exercise of control by the Competent Authority in accordance with the provisions of this Law, every action must be taken in order to avoid any unjustified prohibition of sail or delay to the ship.

(5) In case an unjustified prohibition of sail was imposed or the ship was unjustifiably delayed, the operator of the ship is entitled to reimbursement for any loss or damaged suffered;

Provided that in case such claim, the burden of proof shall be borne by the operator of the ship.

*Administrative  
fine.*

**36.** – (1) In case the Competent Authority, finds that a person commits an act or omits to fulfil any of his obligations in contravention of the provisions of this Law, the Competent Authority has the power to impose on such person an administrative fine not exceeding eight thousand five hundred Euro (€ 8.500), depending on the seriousness of the contravention and irrespective of whether or not there is a concurrent case of a criminal liability by virtue of this Law, or any other law or regulations.

(2) The Competent Authority before imposing the administrative fine, notifies the person affected of its intention to impose the administrative fine, informing him of the reasons for which it intends to act as such and providing him with the right to submit representations within five days from the date of such notification.

(3) The Competent Authority imposes an administrative fine by virtue of subsection (1) by a written and reasoned decision communicated to the person affected —

(a) which confirms the contravention; and

(b) by which the person affected is informed—

131(I) of 2015.

- (i) of his right to exercise a recourse against the decision—
  - (A) before the Minister, and
  - (B) before the Supreme Court in accordance with the provisions of Article 146 of the Constitution and of *the Establishment and Functioning of the Administrative Court Law of 2015*, and
- (ii) of the time-limits within which the aforementioned rights may be exercised; and
- (c) which is executed upon communication.

(4) The amount of the administrative fine imposed by virtue of subsection (1) shall be calculated in each case on the basis of indicative directions issued by the Minister, without thereby limiting the discretionary power of the Competent Authority to decide freely on the basis of the actual facts of each case, the amount of the administrative fine.

(5) The Competent Authority shall not allow the lifting of the prohibition of sail (detention) in accordance with section 35 until the administrative fine has been paid or a bank guarantee of an equal amount, of a recognized bank organization has been deposited, and on such conditions as the Competent Authority may deem fit.

(6)(a) The person affected, his representative in the Republic, each have the right to challenge by an hierarchical recourse, before the Minister a decision of the Competent Authority, imposing an administrative fine by virtue of this section which relates to the said ship.

(b) The right to bring a recourse before the Minister is exercised in writing within a time-limit of 30 days from the notification of the challenged decision, to the person affected.

(c) In cases where the administrative fine is imposed by a decision of the Minister as the Competent Authority, the present section is applicable as if it were a provision which provided for the right to file an objection before the Minister, against his decision imposing an administrative fine.

(7) In the event of a failure or neglect of a person on whom an administrative fine was imposed by virtue of this Law, to pay such fine to the Competent Authority, the Competent Authority takes judicial measures and collects the amount due as a civil debt owed to the Republic.

(8) Any administrative fine imposed by virtue of this section to the owner of the ship, with respect to his ship such fine shall constitute a charge on a ship, which is satisfied in priority over other creditors, subject to its ranking after the last mortgage.

(9) In case where an administrative fine imposed by virtue of this Law is successfully challenged either before the Minister in accordance with this section or before the Supreme Court in accordance with the provisions of Article 146 of the Constitution and *the Establishment and Functioning of the Administrative Court Law of 2015*, the following shall apply.

- (a) subsections (7) and (8) shall not apply in relation to such administrative fine;
- (b) the Competent Authority reimburses any sum of the aforementioned administrative fine paid, to the person who had paid such.

*Criminal offences.*

**37.** – (1) The master of a ship, commits a criminal offence, in case he attempts the sailing of a ship in contravention of a prohibition of sailing pursuant to section 35 of this Law, and if found guilty, such person shall be liable to imprisonment for a term not exceeding two years or to a fine not exceeding eight thousand five hundred Euro (€ 8.500) or to both such sentences.

(2) The above offence is committed by the operator of the ship or any other person, who, in his/her knowledge, assists or subverts to the commitment of the offence of subsection (1).

(3) The manufacturer of marine equipment, commits a criminal offence, in case such person, in contravention of subsection (9) of section 12, does not take the necessary corrective measures to render the equipment compliant with the requirements of this Law, does not withdraw such equipment from the market or does not recall such equipment in accordance with the measures imposed by the

Competent Authority, and if found guilty, such person shall be liable to imprisonment for a term not exceeding three years or to a fine not exceeding eight thousand five hundred Euro (€ 8.500) or to both such sentences.

(4) The economic operator, commits a criminal offence, in case such person, in contravention of subsections (1) and (4) of section 26, subsections (1) and (2) of section 28, subsection (1) and/or (2) of section 29, does not take the necessary corrective measures to render the equipment compliant with the requirements of this Law, does not withdraw such equipment from the market or does not recall such equipment in accordance with the measures imposed by the Competent Authority, and if found guilty, such person shall be liable to imprisonment for a term not exceeding three years or to a fine not exceeding eight thousand five hundred Euro (€ 8.500) or to both such sentences.

*Transitory provisions.*

**38.** The following subsidiary legislation issued by virtue of the Merchant Shipping (Marine Equipment) Laws, shall be deemed as issued by virtue of this Law and shall continue to be in force until the replacement thereof:

*Cyprus Government Gazette:  
Supplement III(I):  
24.3.2016*

(a) *the Merchant Shipping (Marine Equipment) Order of 2016.*

*Cyprus Government Gazette:  
Supplement III(I):  
24.3.2016*

(b) *the Merchant Shipping (Marine Equipment) Notification of 2016.*

*Compliance and enforcement of implementing acts of the Commission.*

**39.** – (1) The Competent Authority, during the enforcement of this Law, shall take into account the implementing acts of the Commission issued by virtue of Article 35 of Directive 2014/90/EU, by means of which the Commission shall indicate the respective design, construction and performance requirements and the testing standards provided for in the international instruments, for each item of marine equipment for which the approval of the Competent Authority is required by the international conventions.

(2) The implementing acts of the Commission as set out in subsection (1) are notified by virtue of a Circular of the Director.

*Regulations.*

**40.** The Council of Ministers may issue Regulations for the better implementation of the provisions of this Law.

*Repeal of Laws.*

**41.** *The Merchant Shipping (Marine Equipment) Laws 2002 to 2006,* are repealed as of the date of entry of this Law into force.

*55 (I) of 2002  
48 (I) of 2004  
110(I) of 2006.*

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