

**THE MERCHANT SHIPPING (PORT STATE CONTROL)  
LAWS OF 2011 TO 2020**

LAWS 95 (I)/2011, 155(I)/2015 AND 187(I)/2020  
LAWS TO PROVIDE FOR THE EXERCISE OF PORT STATE CONTROL BY THE  
REPUBLIC ON FOREIGN SHIPS CALLING CYPRUS PORTS **1**

*Official  
Journal of the  
European Union:  
L131/57  
28.05.2009;  
L218/1  
14.8.2013;  
L123/55  
19.5.2015:  
L 315  
30.11.2017.*

For the purposes of harmonisation with the Community Act titled “Directive 2009/16/EC of the European Parliament and of the Council of 23 April 2009 on port State control”, as amended lastly by Directive (EU) 2017/2110 of the European Parliament and of the Council of 15 November 2017, a system of inspections for the safe operation of ro-ro passenger ships and high-speed passenger craft in regular service and amending Directive 2009/16/EC and repealing Council Directive 1999/35/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 (Port State Control) Laws of 2011 to 2020.

*Interpretation.*

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

“Classification certificate” means a document confirming compliance with Chapter II-1, Part A-1, Regulation 3-1 of the SOLAS Convention;

"Competent Authority" means the Minister of Communications and Works<sup>2</sup> and any other person, generally or specially, authorised by him for the purpose by virtue of section 3;

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<sup>1</sup> Editorial Note: Basic Law 95(I)/2011 was published in the Greek language in the Official Gazette of the Republic of Cyprus No. 4287, Supplement I(I), dated 15.7.2011. Amendment Law 155(I)/2015 was published in the Greek language in the Official Gazette of the Republic of Cyprus No. 4538, Supplement I(I), dated 6.11.2015. Amendment Law 187(I)/2020 was published in the Greek language in the Official Gazette of the Republic of Cyprus No.4794, Supplement I(I), dated 17.12.2020. This is an “unofficial” translation into English prepared by the Shipping Deputy Ministry 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.**

**Disclaimer: This translated document is intended for use as a documentation tool and the Shipping Deputy Ministry of the Republic of Cyprus does not assume any liability for its content.**

<sup>2</sup> Editorial Note: By virtue of Law 123(I)/2017 on the Establishment of the Shipping Deputy Ministry, references to the “Minister of Transport, Communications and Works” shall mean the “Shipping Deputy Minister to the President”.

“complaint” means any information or report submitted by any person or organisation with a legitimate interest in the safety of the ship, including an interest in safety or health hazards to its crew, on-board living and working conditions and the prevention of pollution;

"Conventions" means the International Conventions, Protocols, and Codes prescribed from time to time by a Notification; <sup>3</sup>

“Cyprus Ports Authority” means the Cyprus Ports Authority established pursuant to section 4 of the *Cyprus Ports Authority Laws 1973 to 2011*;

38 of 1973  
59 of 1977  
28 of 1979  
195 of 1986  
20 of 1987  
62 of 1987  
207 of 1988  
229 of 1989  
59(I) of 1992  
51(I) of 1993  
2(I) of 1997  
136(I) of 2002  
134(I) of 2004  
164(I) of 2004  
38(I) of 2006  
155(I) of 2007  
86(I) of 2008  
94(I) of 2008  
71(I) of 2011.

"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;

2(a) of  
155(I)/2015.

“Declaration of maritime labour compliance” means the declaration referred to in regulation 5.1.3 of MLC 2006;

Official  
Journal of the  
European Union:  
L138/1  
01.06.1999,  
L 131/114

“Directive 1999/35/EC” means the Community Act titled “Directive 1999/35/EC of the European Council of 29 April 1999 on a system of mandatory surveys for the safe operation of regular ro-ro ferry and high-speed passenger craft services” as lastly amended by Directive 2009/18/EC of the European Parliament and Council of the 23<sup>rd</sup> April 2009;

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<sup>3</sup> Editorial Note : The relevant Conventions have been prescribed by *The Merchant Shipping (Port State Control) Notification of 2015 (Gazette No. 4909, Supplement III(I), dated 4.12.2015, P.I. 411/2015)*. **P.I 411/2015 incorporating the amendments of Directive 2013/38/EU, repealed and replaced previous Notification P.I. 308/2011 .**

28.05.2009.

*Official  
Journal of the  
European Union:  
L131/57  
28.05.2009.*

“Directive 2009/16/EC” means the Community Act titled “Directive 2009/16/EC of the European Parliament and of the Council of 23 April 2009 on port State control”;

*2(a) of  
155(I)/2015.*

“Directive 2013/38/EC” means the Community Act of the European Parliament and of the Council of 12 August 2013 amending Directive 2009/16/EC on port State control ;

*Official  
Journal of the  
European Union:  
L218/1  
14.08.2013.*

"Director"<sup>4</sup> means the Director of the Department of Merchant Shipping of the Ministry of Communications and Works;

“European Commission” means the Commission of the European Union;

“expanded inspection” means an inspection the scope of which is prescribed from time to time by a Notification which may include more detailed inspection in case there are clear grounds according to section 16(3);

“flag State” in respect of the ship, means the State, the flag of which, the ship is entitled to fly;

*2(a) of  
187(I)/2020.*

‘high-speed passenger craft’ means a craft as defined in regulation 1 of chapter X of SOLAS, and carrying more than 12 passengers;

“IMO” means the International Maritime Organization;

“IMO Assembly Resolution A.974(24)” means the IMO Resolution titled “Framework and procedures for the Voluntary IMO Member State Audit Scheme”;

“initial inspection” means a visit on board a ship by a surveyor, in order to check compliance with the relevant Conventions and Regulations and including at least the checks required under section 16(1);

"inspection" means a visit carried out by a surveyor on board a ship, in order to check both the validity of the relevant certificates and other documents and the condition of the ship, its equipment and crew, as well as the living and working conditions of the crew;

“inspection database” means the information system contributing to the implementation of the port State control system within the Community and

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<sup>4</sup> Editorial Note: By virtue of Law 123(I)/2017 on the Establishment of the Shipping Deputy Ministry, references to the “Director” shall mean the “Permanent Secretary” whereas references to the “Department of Merchant Shipping of the Ministry of Transport, Communications and Works” shall mean the “Shipping Deputy Ministry”.

concerning the data related to inspections carried out in the Community and the Paris MOU Region;

"ISM Code" means the International Safety Management Code for the Safety of Ships and the Prevention of Pollution, which was adopted by the International Maritime Organization (IMO) on the 4<sup>th</sup> of November 1993 and was rendered mandatory pursuant to Chapter IX of the SOLAS Convention;

"Maritime Labour Certificate" means the Certificate mentioned in Regulation 5.1.3 of MLC 2006;

"Maritime Labour Convention of 2006 or MLC 2006" means the Maritime Labour Convention of the International Labour Organization (ILO), which was signed in Geneva on 23 February 2006 and ratified by the Maritime Labour Convention 2006 (Ratification) and for Matters Connected Therewith Law of 2012;

2(a) of  
155(I)/2015.

2(a) of  
155(I)/2015.  
Law 6(III)/2012.

"master" means any person having the command or charge of the ship;

"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, signed in Porto on 2<sup>nd</sup> May 1992, as amended from time to time;

"Minister" means the Minister of Communications and Works;

"more detailed inspection" means an inspection where the ship, its equipment and crew as a whole or, as appropriate, parts thereof, are subjected, in the circumstances specified in section 16(3), to an in-depth inspection covering the ship's construction, equipment, manning, living and working conditions and compliance with on-board operational procedures;

2(a) of  
155(I)/2015.

"MOU of the Mediterranean" means the Memorandum of Understanding on Port State Control, which was signed in Barcelona on 28 November 1995, as it stands in its up to date version;

"night time" means a particular time period as prescribed from time to time by an order of the Minister published in the Official Gazette of the Republic; <sup>5</sup>

"Notification" means a notification issued by the Director and published in the

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<sup>5</sup> Editorial Note : For the relevant Ministerial Order see *The Merchant Shipping (Port State Control-Duration of Night) Order of 2011 (Gazette No. 4518, Supplement III(I), dated 23.9.2011, P.I. 339/2011)*.

Official Gazette of the Republic; <sup>6</sup>

"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 by the ISM Code and includes also a legal person;

2(b) of  
155(I)/2015.

"Paris MOU" means the Memorandum of Understanding on Port State Control, signed in Paris on 26 January 1982, as it stands in its up-to date version;

2(c) of  
155(I)/2015.

"Paris MOU Region" means the geographical area in which the signatories to the Paris MOU conduct inspections in the context of the Paris MOU;

"refusal of access order " means a decision of the competent authority of a Member State issued to the operator of the ship, to the master and to the flag State of the ship notifying them that the ship will be refused access to all ports and anchorages of the European Community.

"prohibition of sailing" or "detention of ship" means the explicit prohibition on a ship to sail, due to established deficiencies which, individually or together, make the ship unseaworthy;

"Recognised Organisation" means a classification company or other private body, carrying out statutory tasks on behalf of a flag State administration;

2 of  
187(I)/2020.

"regular service" means a series of ro-ro passenger ship or high-speed passenger craft crossings operated so as to serve traffic between the same two or more ports, or a series of voyages from and to the same port without intermediate calls, either:

- i. according to a published timetable; or
- ii. with crossings so regular or frequent that they constitute a recognisable systematic series;

Official  
Journal of the  
European Union:  
L 129/6  
29.04.2004,  
L 87/109  
31.03.2009.

"Regulation (EC) No 725/2004" means the Community Act titled "Regulation (EC) No 725/2004 of the European Parliament and Council of the 31<sup>st</sup> March 2004 on enhancing ship and port facility security" as lastly amended by Regulation (EC) No 219/2009 of the European Parliament and Council of 11<sup>th</sup> March 2009;

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<sup>6</sup> **Editorial Note** :The Merchant Shipping (Port State Control) Notification of 2015 (Gazette No. 4909, Supplement III(I), dated 4.12.2015, P.I. 411/2015) regulates a variety of matters, as provided under the following sections of this Law :sections 2 (definition of the term "expanded inspection"-definition of the term "Conventions"), 4(3), 6(1), 6(4), 8(1), 11(4)(a), 12(1), 13(2)(a), 13(2)(b), 14(a), 14(b)(i), 14(b)(ii), 15(1), 15(2)(a), 15(2)(b), 16 (1)(a), 16(3)(b)(ii), 17(1), 17(4), 18(1), 18(2), 18(3)(b), 19(4), 19(5)(c), 19(5)(d), 19(8), 20 and 22(3). P.I 411/2015 incorporating the amendments of Directive 2013/38/EU, repealed and replaced previous Notification P.I. 308/2011.

“Republic” means the Republic of Cyprus;

2 of  
187(I)/2020.

ro-ro passenger ship’ means a ship with facilities to enable road or rail vehicles to roll on and roll off the vessel, and carrying more than 12 passengers;

131 (I) of 2004  
98 (I) of 2010.

“SafeSeaNet (information) system” means the system as defined by section 2 of the *Merchant Shipping (Community Vessel Traffic Monitoring and Information System) Laws of 2004 to 2010*;

"ship" means any sea-going ship, other than a Cyprus ship, to which at least one of the Conventions applies;

“ship/port interface” means the interactions that occur when a ship is directly and immediately affected by actions involving the movement of persons or goods or the provision of port services to or from the ship;

“ship at anchorage” means a ship in a port or another area within the jurisdiction of a port, but not at berth, carrying out a ship and port interface;

"shipowner" means the natural or legal person who owns the ship;

77 of 1985  
32 of 1989  
24(III) of 1997  
10 (III) of 2001  
53(III) of 2004  
24 (III) of 2006  
9(III) of 2009.

“SOLAS Convention” means the International Convention for the Safety of Life at Sea of 1974 (SOLAS), ratified pursuant to the *International Convention for the Safety of Life at Sea (Ratification) and Relevant Matters Laws of 1985 to 2009*, including the Protocols and amendments thereof as it stands in its up-to-date version;

“statutory certificate” means a certificate issued by or on behalf of the flag State in accordance with the Conventions;

“stoppage of an operation of a vessel" means a formal prohibition of a ship to continue an operation due to established deficiencies which, individually or together, would render the continued operation hazardous;

45 of 1963  
32 of 1965  
82 of 1968  
62 of 1973  
102 of 1973  
45 of 1974  
42 of 1979  
25 of 1980

"surveyor" means a person, appointed by the Council of Ministers as a surveyor of ships, pursuant to section 3(2)(a) of the *Merchant Shipping (Registration of Ships, Sales and Mortgages) Laws of 1963 to 2005*.

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.

(2) In this Law, any reference to an act of the European Community and/or the European Union means the said act as amended or replaced from time to time.

2(d) of  
155(I)/2015.

(3) In the present Law, all references to Conventions, international codes and resolutions, including those which concern certificates and other documents, are deemed as references to the up-to date versions of the said Conventions, international codes and resolutions.

*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 Communications and Works.

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.

## PART II – CONTROL IN PORTS OF THE REPUBLIC

*Scope of application.*

*3 of 187(I)/2020.*

4. —(1) (a) This Law shall apply to all ships and their crews calling at a port or anchorage of the Republic to engage in a ship / port interface and also to inspections of ro-ro passenger ships and high-speed passenger craft carried out outside a port or away from an anchorage during a regular service in accordance with section 17A.

(b) This section shall apply without prejudice to the rights of intervention available to the authorities of the Republic under the relevant international Conventions, ratified by the Republic.

(2) In case the Competent Authority performs a survey within the territorial waters of the Republic, but not within a port of the Republic, the said survey will be considered as to be conducted for the purposes of this Law.

(3) In case of ships of a gross tonnage below 500 units, the applicable requirements of the relevant Convention shall apply and, to the extent that the Convention does not apply, action is taken as may be necessary to ensure that the ships concerned are not clearly hazardous to safety, health or the environment.

Provided that, on applying the provisions of this section, the surveyor shall follow the guidelines which are from time to time prescribed by a Notification.

(4) When inspecting a ship flying a State's flag, which is not a party to any one of the Conventions, the Competent Authority shall ensure that the treatment given to such ship and its crew is no more favourable than that given to a ship flying the flag of a State which is a party to the particular Convention;

*3(a) of 155(I)/2015.*

Provided that a ship that is flying a State's flag, which is not a party to any one of the Conventions, shall be subject to a more detailed inspection in accordance with procedures established by the Paris MOU.

(5) The provisions of this Law shall not apply to fishing vessels, warships, naval auxiliaries, wooden ships of a primitive build, government ships used for non-commercial purposes and pleasure yachts not engaged in trade.



(6) For the purposes of this Law, the scope of the geographical areas which constitute a port or anchorage are prescribed by virtue of an order of the Minister which is published in the Official Gazette of the Republic.<sup>7</sup>

3(b) of  
155(I)/2015.

(7) Measures adopted to give effect to the present Law, shall not lead to a reduction in the general level of protection of seafarers under European Union social law in the areas to which this Law applies, as compared to the situation which already prevails in each Member State. In implementing those measures, if the Competent Authority becomes aware of a clear violation of European Union law on board ships flying the flag of a Member State, it shall, in accordance with the law and practice which applies in the Republic, forthwith inform any other relevant competent authority in order for further action to be taken as appropriate.

Inspection  
Powers.

5. —(1) (a) The powers delegated by this section, in relation to the inspection of a ship, are delegated to any surveyor.

95(I) of 2011.

(b) For the purposes of paragraph (a) above, section 3(2) of the *Merchant Shipping (Registration of Ships, Sales and Mortgages) Laws of 1963 to 2005* applies as if the phrase “for the purposes of this Law and the Code”, which is included in each one of paragraphs (a) and (b) of the same section, was replaced by phrase “for the purposes of this Law, the Code and the Merchant Shipping (Port State Control) Law of 2011”.

(c) The Competent Authority ensures the recruitment of the requisite number of surveyors possessing the appropriate qualifications, for the inspection of ships and for the taking of all necessary measures so as to ensure the satisfactory exercising of their duties, in accordance with the provisions of this Law, and in particular that they are available for carrying out the inspections required by virtue of the provisions of this Law.

(2) Notwithstanding the provisions of international law and for the purposes of ensuring the fulfilment of any obligation or power, derived from this Law or regulations or orders issued thereunder, each surveyor may –

(a) interrupt, enter, inspect and conduct inspection on any ship, whether lying at anchor or on a voyage and to provide any necessary, as he deems fit, assistance to the master; and

(b) examine any data submitted in a mechanical, electric or electronic database system, and any books or documents kept on the ship, on which he may board by virtue of paragraph (a), which he has reasonable grounds to believe that they contain information or entry in relation to

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<sup>7</sup> Editorial Note : For the relevant Ministerial Order see *The Merchant Shipping (Port State Control-Geographical Areas of Ports and Anchorages) Order of 2012 (Gazette No. 4562, Supplement III(I), dated 20.4.2012, P.I. 151/2012)*.

any obligation derived, as mentioned above, to copy and photocopy, to take copies, photocopies and extracts, and in relation to such extracts on the condition that he has reasonable grounds to believe that such may be necessary for evidence in criminal proceedings in relation to any infringement or omission to comply either with this Law or with the regulations or orders issued thereunder ; and

(c) to enter on a ship-

(i) accompanied by any other person, the presence of whom he deems necessary for any purpose for which he exercises power by virtue of this subsection or subsection (3), and

(ii) carrying any equipment or material, as he deems necessary for any purpose for which he exercises power by virtue of this subsection or subsection (3).

(3) The operator and the master of such ship, have individually the obligation to provide the surveyor, in case the latter reasonably requests (the following) -

(a) any facilitation, and

(b) any information, and

(c) a signed declaration as to the accuracy and truth of the information provided to the surveyor,

and the surveyor (on the other hand) has the power to request and to receive such facilitation, information and declaration.

(4) Each surveyor presents, if asked, before and during the exercise of any powers delegated to him by virtue of subsections (2) and (3), his identity card issued by the Minister according to the *Merchant Shipping (Identity Cards of Surveyors and Inspectors of Ships) Regulations, 2000*, as amended or replaced from time to time.

*Official Gazette,  
Supplement III(I):  
14.07.2000.*

(5) A criminal offence is committed by a person –

(a) to which subsection (3) imposes an obligation and which refuses or omits to comply with such obligation, or

(b) notwithstanding the general content of paragraph (a) above, which conceals, destroys or alters any information, declaration, particulars, book or document, or provides to a surveyor false, incomplete, inaccurate or misleading information, declaration, particulars, book or document, when such information, declaration, particulars, book or document are requested by a surveyor during the exercise of powers delegated by this section,

and shall be liable –

(aa) in case of a first offence, to an imprisonment for a term not exceeding 6 months or to a fine not exceeding three thousand euro (€3.000) or to both such sentences;

(bb) in case of a further offence, to an imprisonment for a term not exceeding 12 months or to a fine not exceeding six thousand euro (€6.000) or to both such sentences.

(6) In case of a criminal prosecution for an offence by virtue of subsection (5) above –

(a) in relation to a refusal or omission to comply with the obligation imposed by subsection (3), it shall constitute a defence for the defendant the proof that he had reasonable grounds when making such refusal or omission;

(b) in relation to the provision of false, incomplete, inaccurate or misleading information, declaration, particular, book or document, it shall constitute a defence for the defendant the proof that such information, declaration, particular, book or document was provided in good faith and without knowing that such information, declaration, particular, book or document was false, incomplete, inaccurate or misleading.

*Professional  
profile of  
surveyors.*

**6.** —(1) The Competent Authority ensures that the inspections shall be carried out only by surveyors who fulfil the qualification minimum criteria specified from time to time by a Notification.

(2) When the Competent Authority cannot provide surveyors with the required professional expertise, the surveyor may be assisted by any person possessing the required expertise.

(3) (a) The carrying out of an inspection and port State control of ships by surveyors and /or persons assisting them, which have commercial interests either in the port of inspection or in the ships inspected is prohibited.

(b) It is prohibited to surveyors to be employed by or undertake work on behalf of non-governmental organizations which issue the statutory and classification certificates or which carry out the surveys necessary for the issue of such certificates to ships.

(4) The Competent Authority shall ensure that the competence of the surveyors and their compliance with the minimum criteria which are prescribed from time to time by a Notification are verified, before authorising them to carry out inspections and periodically thereafter, in the light of the training scheme which they must follow from time to time pursuant to the provisions of subsection (5).

(5) The Competent Authority shall ensure that the surveyors who carry out port

State control duties, receive appropriate training which is established pursuant to the understandings of Article 22 (7) of Directive 2009/16/EC, in particular relating to changes to the port State control system applied in the Community, as laid down in this Law and the amendments to the Conventions.

*Reports from pilots, the Cyprus Ports Authority and relevant cooperation.*

**7.** —(1) The Cyprus Ports Authority shall ensure that its pilots, who are engaged in berthing or unberthing ships or engaged on ships bound for a port of the Republic or in transit from the territorial waters of the Republic, shall immediately inform the Competent Authority whenever they learn, in the course of their normal duties, that there are apparent anomalies which may prejudice the safe navigation of the ship, or which may pose a threat of harm to the marine environment.

(2) If the Cyprus Ports Authority, in the course of its duties, learns that a ship within its port presents apparent anomalies which may prejudice the safety of the ship or pose an excessive threat of harm to the marine environment, it shall immediately inform the Competent Authority.

(3) The Cyprus Ports Authority and its pilots submit to the Competent Authority at least the following information, in electronic form when possible:

- (a) ship information (name, IMO identification number, call sign and flag);
- (b) sailing information (last port of call, port of destination); and
- (c) description of apparent anomalies found on board.

(4) The Competent Authority shall ensure that proper follow-up action is taken on apparent anomalies notified by pilots and the Cyprus Ports Authority.

*Inspection system and annual inspection commitment.*

**8.** —(1) The Competent Authority shall carry out inspections in accordance with the selection scheme as laid down in section 15 and prescribed from time to time by a Notification.

(2) The Competent Authority, in order to comply with its annual inspection commitment, shall:

- (a) ensure the inspection of all priority I ships referred to in section 15 (2) (a) of this Law, which call at the ports or anchorages of the Republic;
- (b) ensure the carrying out, on a yearly basis, of a total number of inspections of priority I and priority II ships, referred to in section 15 (2) (a) and (b), corresponding at least to the share of the Republic of the total number of inspections to be carried out annually within the European Union and the Paris MOU region. The inspection share of the Republic shall be based on the number of individual ships calling at ports of the Republic in relation to the sum of the number of individual ships calling at ports of each Member State within the European Union and the Paris MOU Region.

(3) With a view to calculating the share of the total number of inspections to be carried out annually within the European Union and the Paris MOU Region referred to in subsection (2) (b), ships at anchorage shall not be counted, unless otherwise specified by the relevant Member State .

*Modalities of compliance with the inspection commitment.*

**9.** (1) In the event the Competent Authority fails to carry out the inspections required in section 8(2)(a), it shall be deemed that it still complies with its commitment in accordance with such provision provided that such missed inspections do not exceed:

- (a) 5% of the total number of priority I ships with a high risk profile calling at the ports and anchorages of the Republic;
- (b) 10% of the total number of priority I ships other than those with a high risk profile calling at the ports and anchorages of the Republic.

(2) Notwithstanding the percentages in paragraphs (a) and (b) of subsection (1) above , the Competent Authority shall prioritise the inspection of ships, which, according to the information provided by the inspection database, call at ports within the European Union infrequently.

(3) Notwithstanding the percentages in paragraphs (a) and (b) of subsection (1) above, in relation to priority I ships calling at anchorages of the Republic, the Competent Authority shall prioritise the inspection of ships with a high risk profile, which, according to the information provided by the inspection database, call at ports within the European Union infrequently.

*Modalities allowing a balanced inspection share within the European Union.*

**10.** —(1) Where the total number of calls of priority I ships at ports of the Republic exceeds its inspection share referred to in section 8(2)(b), the Competent Authority shall be regarded as complying with such commitment, if the number of inspections on priority I ships carried out corresponds at least to such inspection share and if it does not miss more than 30% of the total number of priority I ships calling at the ports and anchorages of the Republic.

(2) In case where the total number of calls of priority I and priority II ships is less than the inspection share referred to in section 8(2)(b), the Competent Authority shall be regarded as complying with such commitment, if it carries out the inspections of priority I ships required under section 8(2)(a) and inspections of at least 85% of the total number of priority II ships calling at the ports and anchorages of the Republic.

*Postponement of inspections and exceptional circumstances.*

**11.** —(1) The Competent Authority may decide to postpone the inspection of a priority I ship in the following circumstances:

- (a) if the inspection may be carried out at the next call of the ship in the Republic, provided that the ship does not call at any other port in the European Union or the Paris MOU Region in between and the

postponement is not more than 15 days; or

- (b) if the inspection may be carried out in another port of call within the European Union or the Paris MOU Region within 15 days, provided the State in which such port of call is located has agreed in advance to perform the inspection.

(2) (a) If an inspection is postponed in accordance with paragraphs (a) or (b) of subsection (1) above and is recorded in the inspection database, a missed inspection shall not be counted as a missed inspection against the Competent Authority which postponed the inspection.

Nevertheless, where an inspection of a priority I ship is not performed, the relevant ship shall not be exempted from being inspected at the next port of call of the Republic in accordance with this Law.

(b) In case where a Member State, other than the Republic, postponed the inspection of a priority I ship, according to Article 8, paragraph 1, of Directive 2009/16/EC, and the next port of call of the ship is in the Republic, the Competent Authority shall ensure the inspection of such ship.

(3) Where an inspection is not performed on priority I ships for operational reasons, it shall not be counted as a missed inspection, provided that the reason for missing the inspection is recorded in the inspection database and the following exceptional circumstances occur:

- (a) in the judgment of the Competent Authority the conduct of the inspection would create a risk to the safety of the surveyors, the ship, its crew or to the port, or to the marine environment; or
- (b) the ship call takes place only during night time; In this case the Competent Authority shall take the necessary measures to ensure that ships calling regularly during night time are inspected as appropriate.

(4) If an inspection is not performed on a ship at anchorage it shall not be counted as a missed inspection if:

- (a) the ship is inspected in another port or anchorage within the European Union or the Paris MOU Region as prescribed from time to time by a Notification within 15 days; or
- (b) the ship call takes place only during night time or its duration is too short for the inspection to be carried out satisfactorily, and the reason for missing the inspection is recorded in the inspection database; or
- (c) in the judgment of the Competent Authority the conduct of the inspection would create a risk to the safety of the surveyors, the ship, its crew or to the port of the Republic , or to the marine environment, and the reason for missing the inspection is recorded in the inspection

database.

*Obligation to provide information on ship arrival.*

**12.** —(1) The operator, agent or master of a ship which, in accordance with section 17, is eligible for an expanded inspection and bound for a port or anchorage of the Republic, each one has the obligation to ensure that one of them notifies the ship's arrival and provides information to the Competent Authority and/or the Cyprus Ports Authority as prescribed from time to time by a Notification.

*131 (I) of 2004  
98(I) of 2010.*

(2) On receipt of the notification referred to in subsection (1) of the present section and sections 6 and/or 15 of the *Merchant Shipping (Community Vessel Traffic Monitoring and Information System) Laws of 2004 to 2010*, the Cyprus Ports Authority shall forward such information to the Competent Authority so as to ensure the submission of the ship to an inspection.

(3) Electronic means shall be used whenever possible for any communication provided for in this section.

(4) The procedures and formats developed by the Notification issued under subsection (1) above, for the purposes of notifying a ship arrival shall comply with the relevant provisions regarding submission of ship information (ship's notifications) of the *Merchant Shipping (Community Vessel Traffic Monitoring and Information System) Laws of 2004 to 2010*.

(5) (a) Without prejudice to the provisions of section 22, in case where:

(i) the ship is eligible for expanded inspection according to section 17 and calls at a port or anchorage of the Republic, and

(ii) the operator, agent or master of the ship does not comply with subsection (1)

each one of the afore mentioned persons, has the obligation to ensure that the ship remains in the said port or anchorage for 72 hours from its call, so as to enable the Competent Authority to perform the required expanded inspection;

Provided that the Competent Authority allows the departure of the ship before the lapse of the 72 hours term, if the expanded inspection has been completed.

(b) When enforcing paragraph (a), the Competent Authority ensures that it does not unnecessarily delay the performance of the expanded inspection.

*Determination of priority of inspection of a ship according to the ship risk profile.*

**13.** —(1) All ships calling at a port or anchorage of the Republic shall, in the inspection database, be attributed a ship risk profile which determines their respective priority for inspection, the intervals between the inspections and the scope of inspections.

(2) The risk profile of a ship shall be determined by a combination of generic and historical risk parameters as follows:

(a) Generic parameters:

Generic parameters shall be based on the type, age, flag, recognised organisations involved and the operator's performance as further prescribed from time to time by a Notification.

(b) Historical parameters:

Historical parameters shall be based on the number of deficiencies and detentions during a given period as further prescribed from time to time by a Notification.

*Frequency of inspections.*

**14.** —(1) Ships calling at ports or anchorages within the Republic shall be subject to periodic inspections or additional inspections as follows:

(a) Ships shall be subject to periodic inspections at predetermined intervals depending on their risk profile which is prescribed from time to time by a Notification. The interval between periodic inspections of ships shall increase as the risk decreases. For high risk ships, this interval shall not exceed six months;

(b) Ships shall be subject to additional inspections regardless of the period since their last periodic inspection as follows:

(i) the Competent Authority shall ensure that ships to which overriding factors, which are prescribed from time to time by a Notification, apply are inspected,

(ii) ships to which unexpected factors, as prescribed from time to time by a Notification, apply may be inspected. The decision to undertake such an additional inspection is left to the professional judgment of the Competent Authority.

*Selection of ships for inspection.*

**15.** —(1) The Competent Authority ensures that the selection of ships for inspection is conducted on the basis of their risk profile as prescribed from time to time by a Notification, and in case of ships for which overriding or unexpected factors apply, is conducted as prescribed from time to time by a Notification.

(2) Regarding the inspection of ships, the Competent Authority:

(a) shall select ships which are due for a mandatory inspection, i.e. the 'priority I' ships, in accordance with the selection scheme as prescribed from time to time by a Notification;

(b) may select ships which are eligible for inspection, i.e. the "priority II" ships, as prescribed from time to time by a Notification.

*Procedure for*

**16.** — The Competent Authority shall ensure that ships which are selected for



*initial and  
more detailed  
inspections.*

inspection in accordance with section 15 or section 17A are subject to an initial inspection or a more detailed inspection as follows:

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(1) On each initial inspection of a ship, the Competent Authority shall ensure that the surveyor, at least:

(a) checks the certificates and documents as prescribed from time to time by a Notification required to be kept on board in accordance with the maritime legislation of the European Union and the Conventions relating to safety and security;

(b) verifies, where appropriate, whether the outstanding deficiencies found during the previous inspection carried out by a Member State or by a State signatory to the Paris MOU have been rectified;

(c) satisfies himself of the overall condition of the ship, including the conditions of hygiene of the ship, including engine room and accommodation.

(2) (a) When, after an inspection referred to in subsection (1), deficiencies to be rectified at the next port of call, which is in the Republic, have been recorded in the inspection database, the Competent Authority may decide not to carry out the verifications referred to in subsection (1) (a) and (c).

(b) When after an inspection performed by a competent authority of a Member State, other than the Republic, according to Article 13, paragraph 1, of Directive 2009/16/EC, deficiencies to be rectified at the next port of call, which is in the Republic, have been recorded in the inspection database, the Competent Authority may decide not to carry out the verifications according to Article 13, paragraph 1 (a) and (c) of the said Directive.

(3) (a) A more detailed inspection shall be carried out, including further checking of compliance with on-board operational requirements, whenever there are clear grounds for believing, after the inspection referred to in subsection (1) above, that the condition of a ship or of its equipment or crew does not substantially meet the relevant requirements of a Convention.

(b) For the purposes of paragraph (a) above “clear grounds”:

(i) shall exist when the surveyor finds evidence which in his professional judgment warrant a more detailed inspection of the ship, its equipment or its crew, and

(ii) shall include the examples which are prescribed from time to time by a Notification.

*Expanded  
inspections.*

**17.** — (1) The following categories of ships are eligible to an expanded inspection, the scope of which is prescribed from time to time by a Notification:

- (a) ships with a high risk profile;
- (b) passenger ships, oil tankers, gas or chemical tankers or bulk carriers, older than 12 years of age;
- (c) ships with a high risk profile or passenger ships, oil tankers, gas or chemical tankers or bulk carriers, older than 12 years of age, in cases of overriding or unexpected factors;
- (d) ships subject to re-inspection following a refusal of access order issued in accordance with section 19.

(2) The operator or master of the ship, have individually the obligation to ensure that one of them makes sure that sufficient time is available in the operating schedule to allow the expanded inspection to be carried out.

Without prejudice to control measures required for security purposes, the ship shall remain in the port until the inspection is completed.

(3) On receipt of a pre-notification provided by a ship eligible for a periodic expanded inspection, the Competent Authority shall inform the ship if no expanded inspection will be carried out.

(4) The scope of an expanded inspection, including the risk areas to be covered, is prescribed from time to time by a Notification.

*Inspection of ro-ro  
passenger ships  
and high speed  
passenger craft in  
regular service*

*5 of  
187(1)/2020*

**17A.** — (1) Ro-ro passenger ships and high-speed passenger craft operating on a regular service are eligible for inspections in accordance with the time frame and requirements, as set out in notification from time to time.

(2) The Competent Authority shall, when planning inspections of a ro-ro passenger ship or high-speed passenger craft, take due account of the operational and maintenance schedule of the ro-ro passenger ship or high-speed passenger craft.

(3) When a ro-ro passenger ship or high-speed passenger craft has been subject to an inspection in accordance with the time frame, as set out in notification from time to time, such inspection shall be recorded in the inspection database, and shall be taken into account for the purposes of sections 13, 14 and 15 and for calculating the fulfilment of the inspection commitment of each Member State and this inspection shall be included in the total number of annual inspections carried out by each Member State, provided for in the provisions of section 8.

(4) The provisions of subsection (1) of section 12, paragraph (a) of section 14 and section 17 shall not apply to ro-ro passenger ships and high-speed passenger craft on a regular service inspected under this section.

(5) The Competent Authority shall ensure that the ro-ro passenger ships or high-speed passenger craft that are subject to an additional inspection in

accordance with the provisions of paragraph (b) of section 14 are selected for inspection in accordance with the provisions, as set out in notification from time to time, and the inspections carried out under this subparagraph shall not affect the interval between the inspections, as set out in notification from time to time.

(6) The surveyor of the Competent Authority may agree to be accompanied, during an inspection of a ro-ro passenger ship or high-speed passenger craft, by a port State inspector of another member state acting as an observer and where the flag of the vessel is that of a member state, the Competent Authority shall, upon request, invite a representative of the flag state to accompany the inspection as an observer.

*Safety and security guidelines and procedures.*

**18.** — (1) The Competent Authority shall ensure that the surveyors follow the procedures and guidelines as specified from time to time by a Notification.

(2) As far as security checks are concerned, the Competent Authority shall apply the relevant procedures set out from time to time by a Notification to all ships referred to in Article 3(1), 3(2) and 3(3) of Regulation (EC) No 725/2004, calling at the ports and anchorages of the Republic, except for the Cyprus ships.

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(3) When implementing subsections (1) and (2) above, the Competent Authority shall take into account the rules for their harmonised implementation as adopted from time to time by the European Union.

*Access refusal measures concerning certain ships into a port or anchorage of the Republic.*

**19.** — (1) The Competent Authority shall refuse access to its ports and anchorages of the Republic to any ship which:

(a) flies the flag of a state whose detention rate falls into the black list, adopted in accordance with the Paris MOU on the basis of information recorded in the inspection database and published annually by the European Commission, and has been detained more than twice in the course of the preceding 36 months in a port or anchorage of a member state or of a state signatory of the Paris MOU, or

(b) flies the flag of a state whose detention rate falls into the grey list, adopted in accordance with the Paris MOU on the basis of information recorded in the inspection database and published annually by the European Commission, and has been detained more than twice in the course of the preceding 24 months in a port or anchorage of a member state or of a state signatory of the Paris MOU.

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(2) Paragraph (a) of subsection (1) shall not apply to the situations described in the provisions of subsection (6) of section 23.

(3) The refusal of access becomes applicable as soon as the ship leaves the port or anchorage where it has been the subject of the third detention and where a refusal of access order has been issued.

(4) The refusal of access order shall be lifted only after a period of three months

from the date of issue of the order and as specified from time to time by a Notification.

In case the ship is subject to a second refusal of access, the period shall be 12 months.

(5) Any subsequent detention in a port or anchorage within the European Union shall result in the ship being, without any limit, refused access to any port or anchorage within the European Union.

This third refusal of access order may be lifted after a period of 24 months from the date of issue the order and only if:

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28.05.2009,  
L 74/1  
22.03.2010.*

(a) the ship flies the flag of a State whose detention rate falls neither within the black list nor the grey list referred to in subsection (1) above;

(b) the statutory and classification certificates of the ship are issued by an organisation or organisations recognised under the act of the European Community titled “Regulation (EC) No. 391/2009 of the European Parliament and of the Council of the 23<sup>rd</sup> April 2009 on common rules and standards for ship inspection and survey organisations, as corrected”;

(c) the operator of the ship has a high performance as specified from time to time by a Notification; and

(d) the conditions specified from time to time by a Notification are met.

(6) Any ship not satisfying the criteria specified in subsection (5) after the lapse of 24 months from the date of issue of a refusal of access order shall be permanently refused access to any port or anchorage within the European Union .

(7) Any subsequent refusal of access in a port or anchorage within the European Union after the third refusal of access shall result in the ship being permanently refused access to any port and anchorage within the European Union.

(8) For the purposes of implementing this section, the Competent Authority shall act according to the procedures as specified from time to time by a Notification.

*Report of  
inspection  
to the master.*

**20.** — (1) On completion of an inspection, of a more detailed inspection or of an expanded inspection, the surveyor shall draw up a report as specified from time to time by a Notification and shall provide a copy of the inspection report to the master of the ship.

*4 of  
155(I)/2015.*

(2) Where following a more detailed inspection, the living and working conditions on the ship are found not to conform to the requirements of the MLC 2006, the surveyor shall forthwith bring the deficiencies to the attention of the

master of the ship , with required deadlines for their rectification.

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155(I)/2015.

(3) In the event that the surveyor considers the deficiencies, which are referred to in subsection (2) to be significant, or that they relate to a possible complaint, as specified from time to time by a Notification<sup>8</sup>, the surveyor shall bring the deficiencies to the attention of the competent seafarer's and shipowner's organisations in the Member State in which the inspection is carried out and may:

- (a) notify a representative of the Flag State;
- (b) provide the competent authorities of the next port of call with the relevant information.

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155(I)/2015.

(4) In respect of matters concerning MLC 2006, the Member State in which the inspection is carried out shall have the right to transmit a copy of the inspector's report, to be accompanied by any reply received from the competent authorities of the flag State within the prescribed deadline, to the Director-General of the International Labour Office with a view to take such action as may be considered appropriate and expedient in order to ensure that a record is kept of such information and that it is brought to the attention of parties who might be interested in availing themselves of relevant recourse procedures

*Procedure for  
complaints.*

**21.** — (1) The Competent Authority shall proceed with a rapid initial assessment of all the complaints for the purposes to determine whether such complaints are justified.

(2) Should that be the case, the Competent Authority shall provide the opportunity to anyone concerned to express the views before it finally resolves on that issue.

(3) (a) In case the Competent Authority deems that the complaint is manifestly unfounded, it shall inform the complainant of its decision and of the reasons therefor.

(b) In case the Competent Authority deems that the complaint is justified, it shall inform the complainant for its actions resulting from such complaint.

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155(I)/2015.

(4) The Competent Authority ensures that the identity of the complainant is secured and not be revealed to the master or the operator of the ship. In particular the surveyor shall take appropriate steps to safeguard the confidentiality of complaints made by seafarers, including ensuring confidentiality during any interviews of seafarers;

Provided that the present subsection applies also with respect to complaints

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<sup>8</sup> **Editorial Note:** see *The Merchant Shipping (Port State Control) Notification of 2015 (Gazette No. 4909, Supplement III(I), dated 4.12.2015, P.I. 411/2015)*. **P.I. 411/2015 incorporating the amendments of Directive 2013/38/EU, repealed and replaced previous Notification P.I. 308/2011.**

covered by the MLC 2006.

(5) The Competent Authority must inform the flag State administration, with a copy to the International Labour Organisation (ILO), if appropriate, of complaints not manifestly unfounded and of follow-up actions taken.

*Onshore MLC  
2006 complaint –  
handling  
procedures.*

*6 of  
155(1)/2015.*

**21A.** Subject to the provisions of section 21, the following provisions apply;

(1) A seafarer alleging a breach of the requirements of MLC 2006 may submit a complaint to a surveyor in the port at which the seafarer's ship has called. In such cases, the surveyor shall undertake an initial investigation.

(2) Where appropriate, given the nature of the complaint, the initial investigation shall include consideration of whether the on-board complaint procedures provided for under Regulation 5.1.5 of MLC 2006 have been pursued. The surveyor may also conduct a more detailed inspection in accordance with section 16.

(3) The surveyor shall, where appropriate, seek to promote a resolution of the complaint at the ship-board level.

(4) In the event that the investigation or the inspection reveals a non-conformity that falls within the scope of section 22, the provisions of this section shall apply.

(5) Subject to the provisions of subsection (4) when a complaint by a seafarer related to matters covered by MLC 2006 has not been resolved at the ship-board level, the surveyor shall forthwith notify the flag State, seeking, within a prescribed deadline, advice and a corrective plan of action to be submitted by the flag State.

(6) A report of any inspection carried out shall be transmitted by electronic means to the inspection database referred to in section 25.

(7) Where the complaint has not been resolved following action taken in accordance with subsection (5), the port State shall transmit a copy of the surveyor's report to the Director-General of the International Labour Office. The report shall be accompanied by any reply received within the prescribed deadline from the competent authority of the flag State. The competent seafarers' and shipowners' organisations in the port State shall be similarly informed. In addition, statistics and information regarding complaints that have been resolved shall be regularly submitted by the port State to the Director-General of the International Labour Office.

*Rectification  
of deficiencies  
and prohibition*

**22.** — (1) The Competent Authority shall be satisfied that any deficiencies confirmed or revealed by the inspection are or will be rectified in accordance

*of sailing  
(detention).*

with the Conventions.

(2) If the deficiencies are clearly hazardous to safety, health or the environment, the surveyor shall make a report to that effect and prohibit the sailing of the ship (detain the ship) or stop the operation to which the deficiencies are related and shall deliver a notice to that effect to the master. The prohibition of sailing (detention) shall not be lifted by the Competent Authority, until the hazard is removed or until the Competent Authority establishes that the ship can, subject to any necessary conditions, sail or the operation be resumed without risk to the safety and health of passengers or crew or risk to other ships, or without there being an unreasonable threat of harm to the marine environment.

*7(a) of  
155(I)/2015.*

(2A) In the case of living and working conditions on board which are clearly hazardous to the safety, health or security of seafarers or deficiencies which constitute a serious or repeated breach of MLC 2006 requirements, the Competent Authority shall ensure that a prohibition of sail has been imposed on the ship or that the operation in the course of which the deficiencies are revealed is stopped.

*7(a) of  
155(I)/2015.*

Provided that the prohibition of sail or stoppage of an operation shall not be lifted until those deficiencies have been rectified or if the Competent Authority has accepted a plan of action to rectify those deficiencies and it is satisfied that the plan will be implemented in an expeditious manner. Prior to accepting a plan of action, the surveyor may consult the flag State.

(3) When exercising his professional judgment as to whether or not a ship should be detained, the surveyor shall apply the criteria prescribed from time to time by a Notification.

(4) The surveyor may detain the ship if it is not equipped with a functioning voyage data recorder system (VDR), when its use is compulsory according to the *Merchant Shipping (Community Vessel Traffic Monitoring and Information System) Laws of 2004 to 2010*.

If such deficiency cannot be readily rectified in the port of detention, the Competent Authority may either allow the ship to proceed to the nearest appropriate repair yard where it shall be readily rectified or require that the deficiency is rectified within a maximum period of 30 days according to the guidelines drawn up by the Paris MOU. For these purposes, the procedures laid down in section 23 of this Law shall apply.

(5) In exceptional circumstances, where the overall condition of a ship is obviously substandard, the surveyor may suspend the inspection of the ship until the persons in charge have taken the steps necessary to ensure that it complies with the relevant requirements of the Conventions.

(6) In the event of prohibition of sail, the Competent Authority shall:

*7(b) of*

(a) immediately inform, in writing and including the report of inspection

- 155(I)/2015.* the flag State administration or, when this is not possible, the Consul or, in his absence, the nearest diplomatic representative of that State, of all the circumstances in which intervention was deemed necessary;
- 7(b) of 155(I)/2015.* (b) notify, where required, the nominated surveyors or recognised organisations responsible for the issue of classification certificates or statutory certificates in accordance with Conventions;
- 7(b) of 155(I)/2015.* (c) forthwith notify the flag State accordingly and invite a representative of the flag State to be present, if possible, requesting the flag State to reply within a prescribed deadline, if a ship is prevented from sailing due to serious or repeated breach of the requirements of MLC 2006 or due to the living and working conditions on board being clearly hazardous to the safety, health or security of seafarers;
- 7(b) of 155(I)/2015.* (d) inform forthwith the appropriate seafarers' and shipowners' organisations in the port State in which the inspection was carried out.

(7) The provisions of this Law shall apply without prejudice to the additional requirements of the Conventions concerning notification and reporting procedures related to port State control.

(8) In the course of exercise of the port State control by the Competent Authority according to this Law, all possible efforts shall be made to avoid a ship being unduly detained or delayed.

(9) If a ship is unduly detained or delayed, the owner or operator shall be entitled to compensation for any loss or damage suffered.

Provided that in any instance of alleged undue detention or delay the burden of proof shall lie with the operator of the ship.

(10) For the purposes of alleviating port congestion, the Cyprus Ports Authority may, following consultation with the Competent Authority, move a detained ship to another part of the port, provided that it is safe to do so.

Provided that the risk of port congestion shall not be a consideration when deciding on a detention or on a release from detention.

(11) The issue of a detention order-decision does not alter any responsibilities and obligations of the master or the operator of the ship concerning the safety of the ship and the persons on board, the protection of the environment and the safe keeping of such ship or their relations with the Cyprus Ports Authority and/or other governmental or semi-governmental bodies of the Republic.

Provided that the Cyprus Ports Authority as well as other governmental or semi-governmental bodies of the Republic do not have any responsibility for the keeping of a ship which is under detention ( prohibition of sailing ) .



(12) The Competent Authority shall inform the Cyprus Ports Authority as soon as possible regarding any action taken and shall cooperate with it for the purposes of facilitating the keeping of detained ships.

*Follow – up to inspections and detentions.*

**23.** — (1) Where deficiencies, as referred to in section 22(2), cannot be rectified in the port of inspection, the Competent Authority may allow the ship concerned to sail without any undue delay, to the nearest, to the port of detention, appropriate repair yard, as chosen by the master and by the Competent Authority, where follow-up action can be taken, provided that the conditions determined by the competent authorities of the flag State and agreed by the Competent Authority, are complied with.

Such conditions shall ensure that the ship can sail without risk to the safety and health of passengers or crew or risk to other ships, or without there being an unreasonable threat of harm to the marine environment.

(2) Where the decision to send a ship to a repair yard is due to a lack of compliance with IMO Resolution A. 744(18), either with respect to a ship's documentation or with respect to a ship's structural failures and deficiencies, the Competent Authority may require that the necessary thickness measurements be carried out in the port of detention before the ship is allowed to sail.

(3) In the circumstances referred to in subsection (1) above, the Competent Authority shall notify the competent authority of the State where the repair yard is situated, as well as the parties mentioned in section 22 (6) and any other authority, as appropriate, of all the conditions for the voyage.

The competent authorities of a Member State receiving such notification shall inform the notifying authority of the action taken. In case the Competent Authority receives a respective notification according to Article 21, paragraph 3 of Directive 2009/16/EC, it shall inform the notifying authority of the action taken.

(4) The Competent Authority shall take all measures to ensure that access to any port or anchorage of the Republic is refused to ships referred to in subsection (1) above which proceed to sea:

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(a) without complying with the conditions determined by the competent authority of any Member State in the port of inspection; or

*8 of 155(I)/2015.*

(b) which refuse to comply with the applicable requirements of the Conventions by not calling into the indicated repair yard; or

*8 of 155(I)/2015.*

(c) without complying with the conditions determined by the competent authority of any Member State which is signatory to the MOU of Paris and /or the MOU of the Mediterranean, which has detained the ship in the port of inspection or has refused to comply with the requirements of

the abovementioned MOUs, by not calling into the indicated repair yard.

*8 of  
155(I)/2015.* Provided that such refusal shall be maintained until the owner or operator provides evidence to the competent authority of the Member State or the State which has signed the Paris MOU and /or the MOU of the Mediterranean, in which the ship was found to have deficiencies, demonstrating that the ship fully complies with all applicable requirements of the Conventions and the abovementioned MOUs.

*8 of  
155(I)/2015.* (5) (a) In case the Competent Authority prescribed conditions according to subsection (4) (a) and (c) above, it shall immediately alert the competent authorities of all other Member States and the States which are signatories to the abovementioned MOUs.

*8 of  
155(I)/2015.* (b) In the circumstances referred to in subsection (4) (b) (c) above, the Competent Authority shall immediately alert the competent authorities of all other Member States and the States which are signatories to the abovementioned MOUs, in case the repair yard is situated in the Republic

*8 of  
155(I)/2015..* (c) Before denying entry to a foreign flagged ship into a port of the Republic, the Competent Authority may request consultations with the flag administration of the ship concerned.

(6) Notwithstanding the provisions of subsection (4) above , access to a port of the Republic may be permitted by the Competent Authority in the event of force majeure or overriding safety considerations or in order to reduce or minimize the risk of pollution or to have deficiencies rectified, provided that the Competent Authority is satisfied that the operator of the ship or the master, will take adequate measures to ensure safe entry.

*Payment  
of costs of  
inspection.* **24.** – (1) Should the inspections referred to in sections 16 and 17 confirm or reveal deficiencies in relation to the requirements of a Convention warranting the detention of a ship, all costs relating to the inspections in any normal accounting period shall be covered by the operator of the ship or by his representative in the Republic.

(2) All costs relating to inspections carried out by the Competent Authority under the provisions of sections 19 and 23(4) shall be charged to the operator of the ship.

(3) In the case of detention of a ship, all costs relating to the detention in port shall be borne by the operator of the ship.

(4) The detention shall not be lifted until full payment is made or a sufficient guarantee is given for reimbursement of the costs, which can be ensured with the deposit of a bank guarantee of an equal amount, of a recognized bank organization and on such conditions as the Competent Authority may deem fit:

Provided that, in certain instances and on the discretion of the Competent Authority, a personal guarantee or bank cheque of the agent of the ship or other representative of the operator of the ship in the Republic can be accepted.

*Inspection database.*

**25.-** (1) The Competent Authority shall take the appropriate measures to ensure that the information on the actual time of arrival and the actual time of departure of any ship calling at ports and anchorages of the Republic, together with an identifier of the port concerned, is transferred within a reasonable time to the inspection database through the ‘SafeSeaNet’ system .

Once the Competent Authority has transferred such information to the inspection database through the SafeSeaNet system, the Competent Authority shall be exempted from the provision of data in accordance with paragraphs 1.2 and 2(a) and (b) of Annex XIV of Directive 2009/16/EC.

(2) The Competent Authority shall ensure that the information related to inspections performed in accordance with this Law is transferred to the inspection database as soon as the inspection report is completed or the detention lifted.

Within 72 hours, the Competent Authority shall ensure that the information transferred to the inspection database is validated for publication purposes.

*Data to monitor implementation.*

**26.** The Competent Authority, for the purposes of monitoring the implementation of this Law, shall provide the European Commission with the information listed in Annex XIV of Directive 2009/16/EC and at the intervals stated in that Annex.

*Exchange of information and cooperation.*

**27.** The Cyprus Ports Authority shall provide the Competent Authority with the following information kept by it:

(a) information notified according to section 12 of this Law;

(b) information concerning ships which have failed to notify any information according to the requirements of this Law, and of the *Port Reception Facilities for Ship-Generated Waste and Cargo Residues Regulations of 2003-2009*, of the *Merchant Shipping (Community Vessel Traffic Monitoring and Information System) Laws of 2004 - 2010* and, as well as, if appropriate, of Regulation (EC) No 725/2004;

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24.7.2009.*

(c) information concerning ships which have proceeded to sea without having complied with paragraphs (1), (2), (3) or (4) of Regulation 20 of the *Port Reception Facilities for Ship-Generated Waste and Cargo*

*Residues Regulations of 2003 -2009;*

(d) information concerning ships which have been denied entry or expelled from ports on security grounds;

(e) information on apparent anomalies in accordance with section 7 of this Law.

### PART III — SANCTIONS AND MISCELLANEOUS PROVISIONS

*Notice to the master as to the right to object and to file a hierarchical recourse.*

**28.** —(1) In case a ship is prohibited from sailing (detained), pursuant to this Law, the Competent Authority shall serve the master of the ship or his representative in the Republic, with a notice informing him, of the rights of filing an objection and a recourse, as provided in sections 29 and 30, respectively.

(2) In case the access of a ship to a port is refused , pursuant to this Law, the Competent Authority shall inform the master or the agent of the ship, in the relevant notice with which he is served, of his right to file a recourse under section 30.

*Right to object.*

**29.** – (1) The decision of a surveyor to prohibit the sailing of a ship pursuant to the provisions of this Law, may be challenged by an objection brought before the Director by the operator of the ship, or his representative in the Republic. The right to object shall be exercised in writing within a time limit of 48 hours of working days as from the service of the notice of the prohibition of sailing to the master pursuant to section 22(2).

(2) Any objection filed in accordance with subsection (1) above shall not stay the execution of the decision.

(3) The Director shall examine the objection and shall, after having heard the interested parties or having given them the opportunity to express their views in writing, issue a decision on it, pursuant to subsection (4), the latest within 48 hours of working days.

(4) The Director may decide -

- (a) To confirm the challenged decision;
- (b) to declare the challenged decision null and void;
- (c) to amend the challenged decision;
- (d) to issue a new decision in substitution for the challenged decision.

The Director communicates the decision he issues pursuant to this subsection, to the person filing the objection, as well as to the master of the ship concerned.

(5) In case of revocation (annulment) or amendment of the decision to prohibit the sailing of a ship or the access of a ship to a port as a result of a recourse or request of the operator of the ship or his representative in the Republic, the Competent Authority shall ensure that:

(a) the inspection database is amended accordingly without any delay;  
and

(b) within 24 hours from taking such decision, the European Commission is informed accordingly so as to correct the information kept for ship inspections and detentions.

*Recourse before  
the Minister.*

**30.** —(1) The operator of the ship or his representative in the Republic, may challenge, individually, by a recourse before the Minister, any of the following decisions, concerning the ship and having been issued under this Law:

(a) a surveyor's decision for a prohibition of sailing (detention);

(b) a decision of the Competent Authority for the prohibition of entry into a port of the Republic (refusal of access order);

(c) a decision of the Director, issued under section 29.

A recourse before the Minister shall be filed in writing within a time limit of 5 days from the service of the notice of the challenged decision to the master of the ship concerned.

(2) The recourse, provided for in subsection (1), shall not stay the execution of the decision.

(3) The Minister shall examine the recourse and shall, after having heard the interested parties or having given them the opportunity to express their views in writing, issue a decision on it, pursuant to subsection (4), the latest within a time limit of 10 days.

(4) The Minister may decide—

(a) to confirm the challenged decision;

(b) to declare the challenged decision null and void;

(c) to amend the challenged decision;

(d) to issue a new decision in substitution for the challenged decision.

The Minister communicates the decision he issues pursuant to this subsection, to the person filing the recourse, as well as the master of the ship concerned .

(5) In case the challenged decision according to subsection (1) has been issued by the Minister as Competent Authority, subsections (1) to (4) shall apply, as if they were provisions which stipulate the submission of an objection to the Minister.

(6) In case of revocation or amendment of the decision to prohibit the sailing of a ship or the access of a ship to a port as a result of a recourse or request of the operator of the ship or his representative in the Republic, the Competent Authority shall ensure that :

(a) the inspection database is amended accordingly without any delay; and

(b) within 24 hours from taking such decision, the European Commission is informed accordingly so as to correct the information published according to Article 26 of Directive 2009/16/EC.

*Criminal offence.*

**31.** Each one of the operator or master of a ship, commits a criminal offence, in case such person—

- (a) Attempts the sailing or operation of a ship in contravention of a prohibition of sailing or ceasing of operation imposed on such ship pursuant to this Law; or
- (b) Attempts an entry of the ship to a port of the Republic, in contravention of a refusal of access to a port imposed on such ship pursuant to this Law; or
- (c) fails to comply with an obligation imposed by section 12 (1) or 12 (5)(a); or
- (d) fails to take the necessary measures for the ship to proceed to the repair yard as allowed by the Competent Authority pursuant to section 22 or fails to take the necessary measures for rectifying a deficiency as requested by the Competent Authority in accordance with the same section; or
- (e) fails to take the necessary measures for the sailing of the ship to a repair yard, pursuant to section 23(1),

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 fifty euro (€ 8.550 ) or to both such sentences.

*Administrative fine.*

**32.** - (1) In case the Competent Authority, finds that a person commits an act or omits to fulfil any of his obligations in contravention of subsection (1), section 12(1), the Competent Authority has a power to impose on such person an administrative fine not exceeding eight thousand five hundred fifty euro (€ 8.550), 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 a reasonable time 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—

(i) of his right to exercise a recourse against the decision—

(A) before the Minister in accordance with the provisions of section 30 , and

(B) before the Supreme Court in accordance with the provisions of Article 146 of the Constitution, and

(ii) of the time-limits within which the aforementioned rights may be exercised, as prescribed in section 30 of this Law and Article 146 of the Constitution, respectively; 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, within the scope of the directions, the discretionary power of the Competent Authority, which confirms the particular contravention, to decide freely on the basis of the actual facts of each case.

(5) (a) The operator of a ship, 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) Subsections (2), (3) and (4) above shall apply *mutatis mutandis*, for the purposes of this section.

(6) 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.

*Payment of administrative expenses and of administrative fine.*

**33.** – (1) In the event of a failure or neglect of—

(a) a person to pay to the Competent Authority, the expenses owed by himself in accordance with section 24;

(b) 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.

(2) Any of the following constitutes a charge on a ship, which is satisfied in priority over other creditors, subject to its ranking after the last mortgage:

(a) an expense mentioned in section 24 and which relates to the said ship;

(b) an administrative fine imposed on the operator of the ship, by virtue section 32 of this Law relating to the said ship.

(3) In case where an administrative fine imposed by virtue of this Law is successfully challenged either before the Minister in accordance with the provisions of section 32 or before the Supreme Court in accordance with the provisions of Article 146 of the Constitution, the following shall apply:

(a) subsections (1) and (2) do 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.

*Cooperation with involved governmental or semi-governmental organisations of the Republic and bodies of the private sector.*

**34.** For the purposes of this Law, the relations of the Competent Authority with other involved governmental or semi-governmental organisations of the Republic and other involved bodies of the private sector, for the efficient implementation of the provisions of this Law, shall be regulated by a Notification issued as a result of relevant consultations.

*Regulations.*

**35.** The Council of Ministers has the power to issue Regulations in order to



regulate any matter which under this Law needs or is capable of receiving regulation.

*Orders and notifications.*

**36.** – (1) The Minister may issue any order as mentioned in section 2(1) of this Law.

(2) The Director may issue any Notification as prescribed by this Law. <sup>9</sup>

*Repeal of Laws and saving of certain acts.*

**37.** – (1) *The Merchant Shipping (Port State Control) Laws of 2001 to 2009*, and the Notifications issued thereunder are hereby repealed.

*47(I) of 2001  
27(I) of 2004  
60(I) of 2009.*

*Official Gazette  
Supplement III(I):  
23.4.2004  
20.5.2005.*

(2) Notwithstanding the provisions of subsection (1) above, the Minister's directions-instructions issued by virtue of section 21A(4) of the repealed *Merchant Shipping (Port State Control) Laws of 2001 to 2009*, shall be deemed as issued by virtue of section 32(4) of this Law, until their replaced by new directions-instructions of the Minister.

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<sup>9</sup> Editorial Note: *The Merchant Shipping (Port State Control) Notification of 2015 (Gazette No. 4909, Supplement III(I), dated 4.12.2015, P.I. 411/2015)* regulates a variety of matters, as provided under the following sections of this Law : **sections 2** (definition of the term “expanded inspection”-definition of the term “Conventions”), **4(3), 6(1), 6(4), 8(1), 11(4)(a), 12(1), 13(2)(a), 13(2)(b), 14(a), 14(b)(i), 14(b)(ii), 15(1), 15(2)(a), 15(2)(b), 16 (1)(a), 16(3)(b)(ii), 17(1), 17(4), 18(1), 18(2), 18(3)(b), 19(4), 19(5)(c), 19(5)(d), 19(8), 20 and 22(3)**. P.I 411/2015 incorporating the amendments of **Directive 2013/38/EU, repealed and replaced previous Notification P.I. 308/2011.**