

Regulation concerning amendments to Regulations concerning the control of foreign ships and mobile offshore units in Norwegian ports, etc. (Port State Control Regulations)

Legal basis: Laid down by the Norwegian Maritime Authority on 19 August 2013 under the Act of 16 February No. 9 relating to Ship Safety and Security (Ship Safety and Security Act) sections 44, 45, 52 and 71a, cf. Formal Delegation of 16 February 2007 No. 171, Formal Delegation of 31 May 2007 No. 590 and Formal Delegation of 19 August 2013 No. 1002, and Act of 21 June 2013 No. 102 relating to employment protection etc. for employees on board ships (Ship Labour Act) section 9-7, cf. Formal Delegation of 3 July 2013 No. 974.

I

Regulations of 30 December 2010 No. 1849 concerning the control of foreign ships and mobile offshore units in Norwegian ports, etc. are amended as follows:

Section 2 should read:

Section 2 Definitions

For the purpose of these Regulations, the following definitions shall apply:

- a) “*Recognised organisation*”: a classification society or other private body, carrying out statutory tasks on behalf of a flag State.
- b) “*Ship at anchorage*”: a ship in a port or another area within the jurisdiction of a port, but not at berth, when the 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.
- c) “*The White, Grey and Black list*”: lists published by Paris MOU based on the performance of a flag State over a 3-year period. White listed flags are flags with a consistently low detention record. Grey listed flags are flags with an average performance. Black listed flags are flags that have performed worse than average.
- d) “*ILO*”: International Labour Organization.
- e) “*Initial inspection*”: a visit on board a ship by an inspector, in order to check compliance with the relevant Conventions and regulations.
- f) “*Conventions*”: the following Conventions, with the Protocols and amendments thereto, and related codes of mandatory status, in their up-to-date version.
 1. International Convention on Load Lines, 1966 (LL 66);
 2. International Convention for the Safety of Life at Sea, 1974 (SOLAS 74);
 3. International Convention for the Prevention of Pollution from Ships, 1973, and the 1978 Protocol relating thereto (MARPOL 73/78);
 4. International Convention on Standards of Training, Certification and Watchkeeping for Seafarers, 1978 (STCW 78/95);
 5. Convention on the International Regulations for Preventing Collisions at Sea, 1972 (Colreg 72);
 6. International Convention on Tonnage Measurement of Ships, 1969 (ITC 69);
 7. Merchant Shipping (Minimum Standards) Convention, 1976 (ILO No. 147) ;
 8. International Convention on Civil Liability for Oil Pollution Damage, 1992 (CLC 92);
 9. Maritime Labour Convention, 2006 (ILO Convention No. 186).
- g) “*Statutory certificate*”: a certificate issued by or on behalf of a flag State in accordance with Conventions.
- h) “*More detailed inspection*”: an inspection where the ship, its equipment and crew as a whole or, as appropriate, parts thereof are subjected to an in-depth examination covering the ship’s construction, equipment, manning, living and working conditions and compliance with on-board operational procedures.
- i) “*Paris MOU*”: The Paris Memorandum of Understanding on Port State Control.
- j) “*Expanded inspection*”: an inspection, which covers at least the items listed in Annex 5. An expanded inspection may include a more detailed inspection whenever there are clear grounds in accordance with section 6 third paragraph.

Section 32 new second paragraph should read:

Special rules on the right to lodge complaints alleging breaches of the requirements of ILO Convention No. 186 are provided in chapter 8 of these Regulations.

New Chapter 8 should read:

Chapter 8 The right to lodge complaints for any person working on board foreign cargo or passenger ships

Section 34 *The right to lodge complaints*

Any person working on board foreign cargo or passenger ships may lodge complaints alleging breaches of the requirements of ILO Convention No. 186 with a port State inspector in the port at which the ship has called. In such cases the port State inspector shall undertake an investigation.

Section 35 *The complaint investigation*

If a complaint investigation pursuant to section 34 is initiated, the port State inspector shall seek to resolve the matter at the ship-board level. The port State inspector shall first check whether the complaint is of a general nature which concerns all persons working on board, or categories of persons working on board, or whether the complaint relates only to the complainant. If the complaint relates to an individual case, an examination of the results of any on-board complaint procedures for the resolution of the complaint concerned should be undertaken.

If the complaint relates to an individual case, and the on-board complaint procedures have not been explored, the port State inspector should suggest that the complainant take advantage of any such procedure available to the complainant. There shall be good reasons for considering a complaint before the on-board complaint procedures have been explored. Such reasons may be the inadequacy of, or undue delay in, the internal procedures or the complainant's fear of reprisal for lodging a complaint.

The port State inspector shall also consider whether a more detailed inspection shall be undertaken in accordance with ILO Convention No. 186 Standard A5.2.1 and the instructions currently in force from Paris MOU.

In any investigation of a complaint, the port State inspector shall give the master, the company and any other person involved in the complaint a proper opportunity to make known their views.

The complaint shall be handled pursuant to the Public Administration Act of 10 February 1967.

Section 36 *Measures*

If the more detailed inspection reveals that requirements of ILO Convention No. 186 are not complied with, and this implies that the conditions on board constitute a clear hazard to the safety, health or security of the seafarers, or the breach constitutes a serious or repeated breach of the requirements of the Convention, the port State inspector shall take steps in accordance with Standard A5.2.1 sixth paragraph and the instructions currently in force from Paris MOU.

For non-conformities of such a nature that they do not fall within the scope of the first paragraph, the port State inspector shall forthwith notify the flag State if the case is not resolved at the ship-board level. The port State inspector shall also request the flag State to submit a suggestion for the resolution of the case, along with a plan of action for rectification of the conditions on board, to the Norwegian Maritime Authority within a prescribed deadline. If the flag State replies that it will handle the case according to an acceptable plan of action which it has submitted, the port State inspector may refrain from any further involvement with the complaint.

If the case is still not resolved by the expiry of the prescribed deadline given to the flag State according to the second paragraph, the Norwegian Maritime Authority shall transmit a copy of the port State inspector's report to the Director-General of the ILO. The report shall be accompanied by any reply received from the flag State. Appropriate employers' and employees' organisations in Norway shall be similarly informed.

The existing chapter 8 becomes new chapter 9, and the existing sections 34 and 35 become new sections 37 and 38, respectively.

Annex 3, new No. forty-five should read:

45. Maritime Labour Certificate. This certificate shall have a Declaration of Maritime Labour Compliance attached.

II

Entry into force

These Regulations enter into force on 20 August 2013.