

# Regulations of 24 November 2014 No. 1458

## on port State control

**Legal basis:** Laid down by the Norwegian Maritime Authority on 24 November 2014 under the Act of 16 February 2007 No. 9 relating to ship safety and security (Ship Safety and Security Act) sections 9, 10, 11, 12, 13, 14, 15, 16, 17, 21, 22, 22a, 23, 24, 25, 26, 27, 28, 28a, 31, 32, 34, 35, 42, 44, 45, 49, 52 and 54, cf. Formal Delegation of 16 February 2007 No. 171, Formal Delegation of 31 May 2007 No. 590 and Formal Delegation of 29 June 2007 No. 849 and Act of 21 June 2013 No. 102 relating to employment protection etc. for employees on board ships (Ship Labour Act) section 1-2 (3) (d) and section 9-7 (5) (f), cf. Formal Delegation of 3 July 2013 No. 974.

**EEA references:** EEA Agreement Annex XIII point 56b (Directive 2009/16/EC as amended by Directive 2013/38/EU), point 56bc (Regulation (EU) No 428/2010), point 56be (Regulation (EU) No 802/2010 as amended by Regulation (EU) No 1205/2012), point 56bd (Regulation (EU) No 801/2010) and Annex XIII point 56h (Directive 1999/95/EC).

**Amendments:** Amended by Regulations of 1 June 2017 No. 692, 8 September 2017 No. 1369, 20 December 2017 No. 2379, 6 December 2018 No. 2299, 31 July 2019 No. 1036 (in force on 1 January 2020), 15 September No. 3116 (in force on 19 September 2021), 24 January 2022 No. 118.

### Chapter 1.

## General and introductory provisions

### Section 1

#### *Scope of application*

These Regulations apply to the following foreign ships used for commercial purposes:

- a. cargo ships;
- b. passenger ships;
- c. mobile offshore units.

For foreign fishing vessels, section 4a of the Regulations applies.

These Regulations do not apply to wooden ships of primitive build.

Amended by Regulation of 1 June 2017 No. 692.

### Section 2

#### *Convention requirements*

The following Conventions with subsequent additions and amendments apply as regulation for ships operating in Norwegian waters to the extent that and as far as the Convention applies to ships covered by these Regulations:

- a. the International Convention for the Safety of Life at Sea, 1974 (SOLAS 74);
- b. the International Convention on Load Lines, 1966 (LL 66);
- c. the International Convention for the Prevention of Pollution from Ships, 1973, and the 1978 Protocol relating thereto (MARPOL 73/78);
- d. the International Convention on Standards of Training, Certification and Watchkeeping for Seafarers, 1978 (STCW 78/95);
- e. the Convention on the International Regulations for Preventing Collisions at Sea, 1972 (Colreg 72);
- f. the International Convention on Tonnage Measurement of Ships, 1969 (ITC 69);
- g. the International Convention on Civil Liability for Oil Pollution Damage, 1992 (CLC 92);
- h. the International Convention on the Control of Harmful Anti-fouling Systems on Ships (AFS Convention);
- i. the International Convention on Civil Liability for Bunker Oil Pollution Damage (Bunkers Convention, 2001);
- j. the Maritime Labour Convention (MLC);
- k. the International Convention for the Control and Management of Ships' Ballast Water and Sediments, 2004.

Amended by Regulations of 8 September 2017 No. 1369, 20 December 2017 No. 2379 (in force on 1 January 2018), 24 January 2022 No. 118.

### Section 3

#### *Passenger ships engaged on domestic voyages in Norway*

Directive 2009/45/EC as amended by Commission Directive 2010/36/EU, Directive (EU) 2017/2108 and Commission Delegated Regulation (EU) 2020/411 shall apply with the specifications, exceptions, additions and special requirements set out in Norwegian regulations concerning:

- a. passenger ships in sea areas of Classes A, B, C or D in Norwegian waters of 24 meters in length (L) and upwards;
- b. passenger high-speed craft of 24 metres in length (L) and upwards.

Passenger ships, including passenger high-speed craft, which are not covered by the provisions of the first paragraph shall be provided with documentation issued by the flag State showing that the ship holds the same safety level as Norwegian passenger ships in an equivalent trade area.

Amended by Regulations of 31 July 2019 No. 1036 (in force on 1 January 2020), 15 September No. 3116 (in force on 19 September 2021).

## Chapter 2. Port State control

### Section 4

#### *Conduct of port State control*

Port State control shall be carried out in compliance with Directive 2009/16/EC, as amended by Directive 2013/38/EU, Regulation (EU) 1257/2013 and Regulation (EU) 2015/757.

The provisions of the Directive are supplemented by the following EU Regulations:

- a. Annex XIII point 56b of the EEA Agreement (Regulation (EU) No 428/2010) implementing Article 14 of Directive 2009/16/EC of the European Parliament and of the Council as regards expanded inspections of ships;
- b. Annex XIII point 56bd of the EEA Agreement (Regulation (EU) No 801/2010) implementing Article 10.3 of Directive 2009/16/EC of the European Parliament and of the Council as regards the flag State criteria;
- c. Annex XIII point 56be of the EEA Agreement (Regulation (EU) No 802/2010 as amended by Regulation (EU) No 1205/2012) implementing Article 10.3 and Article 27 of Directive 2009/16/EC of the European Parliament and of the Council as regards company performance.

The EU Regulations apply as regulation with the adaptations that follow from Annex XIII, Protocol 1 to the Agreement and the Agreement in general.

Amended by Regulations of 1 June 2017 No. 692, 6 December 2018 No. 2299.

### Section 4a

#### *Inspections of foreign fishing vessels*

Foreign fishing vessels of 24 metres in overall length and upwards, calling at a Norwegian port, landing catch in a Norwegian port, or fishing, catching or processing living resources in Norwegian territorial waters, may be subject to control in accordance with the EEA Agreement Annex XIII point 56g (Directive 97/70/EC, as amended by Directive 1999/19/EC, Directive 2002/35/EC and Directive 2002/84/EC) on the establishment of a harmonised safety arrangement for fishing vessels of 24 metres in overall length and upwards.

Added by Regulation of 1 June 2017 No. 692.

## Chapter 3. Obligations of the company and master

### Section 5

#### *Obligation to notify the ship's scheduled arrival time*

If a ship may be subject to or is eligible for an expanded inspection, the company or master shall notify the ship's scheduled time of arrival in a Norwegian port or anchorage via SafeSeaNet Norway no later than three days before the expected time of arrival.

If the voyage is expected to take less than three days, the notification on expected time of arrival shall be recorded not later than before the ship leaves the port or anchorage.

The notification required by the first or second paragraph shall contain:

- a. ship identification (name, call sign, IMO identification number or MMSI number);
- b. port of destination;
- c. expected time of arrival and expected time of departure (ETA, ETD);
- d. information on whether the ship plans anchoring (anchorage or mooring arrangements);
- e. total number of persons on board;
- f. planned operations (loading, unloading, other);
- g. planned statutory survey inspections and substantial maintenance and repair work to be carried out;
- h. date of last expanded inspection in the Paris MOU region and European Economic Area.

Tankers must also provide information on the following:

- a. configuration: single hull, single hull with SBT, double hull;
- b. condition of the cargo and ballast tanks: full, empty, inerted;
- c. volume and nature of the cargo.

The company or master shall as soon as possible notify Norwegian authorities through SafeSeaNet Norway of any changes to the submitted voyage plan.

Amended by Regulation of 20 December 2017 No. 2379 (in force on 1 January 2018).

## Section 6

### *Notification of the actual time of arrival and the actual time of departure*

The company or master shall not later than 1 hour after arrival submit a notification in SafeSeaNet Norway of the ship's actual time of arrival. Time of arrival means when the ship is moored or anchored.

The company or master shall not later than 1 hour after the ship has left the port or anchorage submit a notification in SafeSeaNet Norway of the ship's actual time of departure.

## Section 7

### *Obligation to ensure that sufficient time is available for an expanded inspection*

When a vessel is or may be subject to an expanded inspection, the company or master shall ensure that sufficient time is available to allow the expanded inspection to be carried out. Without prejudice to control measures required for security purposes when the expanded inspection is being carried out, the company shall ensure that the ship remains in the port until the inspection is completed.

Amended by Regulation of 20 December 2017 No. 2379 (in force on 1 January 2018).

## Section 8

### *Obligation to initiate action*

When an inspection has been suspended pursuant to section 4, cf. Directive 2009/16/EC Article 19 (5), the company or master shall take the steps necessary to ensure that the ship complies with the relevant requirements of the Conventions.

## Section 9

### *Costs related to the lifting of administrative measures*

The company shall bear all costs relating to a port State control carried out in order to lift:

- a. a detention;
- b. a refusal of access order.

In the case of detention of a ship, all costs relating to the detention in port shall be borne by the company.

## Chapter 4.

### Administrative measures

## Section 10

### *Detention order and stoppage of an operation*

Ships which:

- a. have deficiencies which are clearly hazardous to safety, health or the environment;
- b. do not comply with the requirement of being equipped with a voyage data recorder;
- c. have living and working conditions on board which are clearly hazardous to the safety, health or security of the employees; or
- d. have deficiencies which constitute a serious or repeated breach of MLC requirements, including employees' rights;

will be detained or have the operation in the course of which the deficiencies are revealed stopped.

Amended by Regulation of 20 December 2017 No. 2379 (in force on 1 January 2018).

## Section 11

### *Refusal of access order*

Ships are refused access to Norwegian ports and anchorages if they are flying the flag of a State whose detention rate falls into:

- a. the Paris MOU black list, and have been detained or issued with a prevention of operation order under Directive 1999/35/EC more than twice in the course of the preceding 36 months in a port or anchorage of a State signatory of the Paris MOU; or
- b. the Paris MOU grey list, and have been detained or issued with a prevention of operation order under Directive 1999/35/EC more than twice in the course of the preceding 24 months in a port or anchorage of a State signatory of the Paris MOU.

## Section 12

### *Commencement of the refusal of access order*

The company shall ensure that ships issued with a refusal of access order rectify any deficiencies found during the port State control before the ship leaves the port or anchorage.

Refusal of access shall become applicable as soon as the ship leaves the port or anchorage where a refusal of access order has been issued.

## Section 13

### *Effect of detention of ships previously issued with refusal of access orders*

A ship is refused access to any port and anchorage in Norway when the ship is detained in a port or anchorage in a State signatory of the Paris MOU after a second refusal of access.

The refusal of access order pursuant to the first paragraph applies correspondingly to ports and anchorages within the Paris MOU region.

## Section 14

### *Permanent refusal of access*

Any ship not meeting the criteria specified in sections 17, 18 or 19 after a period of 24 months has passed from the issue of the refusal of access order shall be permanently refused access to Norwegian ports and anchorages.

Any subsequent detention in a port or anchorage within the Paris MOU region after the third refusal of access shall result in the ship being permanently refused access to any Norwegian ports and anchorages.

The refusal of access orders pursuant to the first and second paragraphs apply correspondingly to ports and anchorages within the Paris MOU region.

## Section 15

### *Refusal of access when conditions are not met*

Ships that have been detained and have been allowed to proceed to a repair yard are refused access to Norwegian ports and anchorages when the ships:

- a. leave the port or anchorage without complying with the conditions determined for the permission; or
- b. do not call directly into the indicated repair yard.

## Chapter 5.

### Lifting of detention, stoppage of an operation and refusal of access order

## Section 16

### *Lifting of detention and stoppage of an operation*

The detention order or stoppage of an operation will not be lifted until the Norwegian Maritime Authority establishes that the ship can proceed to sea or the operation be resumed without:

- a. risk to the safety and health of passengers or crew;
- b. risk to other ships;

- c. there being an unreasonable threat of harm to the environment.

In addition, the company must have made a full payment, or given a sufficient guarantee, for reimbursement of any costs relating to the inspection that results in a lifting.

In case of deficiencies which constitute a breach of MLC, the detention order or stoppage of an operation will not be lifted until:

- a. those deficiencies have been rectified; or
- b. the Norwegian Maritime 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.

## Section 17

### *Lifting of first refusal of access order*

The first refusal of access order shall be lifted only after a period of 3 months has passed from the date of the issue of the order.

The refusal of access order may be lifted only after the period determined for the lifting has elapsed, and the company must:

- a. address a formal request for the lifting of the refusal of access order to the Norwegian Maritime Authority;
- b. append documentation from the flag State administration showing that a surveyor duly authorised by the flag State administration has been on board and confirmed that the ship fully conforms to the applicable provisions of the Conventions;
- c. where appropriate, append a document from the classification society which has the ship in class showing that the surveyor who has written the report has been on board and confirmed that the ship conforms to the class standards stipulated by that society;
- d. provide evidence that a re-inspection has been carried out in a Norwegian port, or in a port approved by the Norwegian Maritime Authority, which confirms that the ship fully complies with the applicable requirements of the Conventions;
- e. have made a full payment or given a sufficient guarantee for reimbursement of the costs relating to the re-inspection.

When a re-inspection is to be carried out in Norway, the company, the company's representative in Norway or the master shall submit a request for re-inspection not later than 14 days before the re-inspection is to take place. The ship shall not load or unload in port before the inspection is completed and the refusal of access order has been lifted.

## Section 18

### *Lifting of second refusal of access order*

When the ship is subject to a second refusal of access, the refusal of access order shall be lifted only after a period of 12 months has passed from the date when the decision on the second refusal of access order was made. The conditions in the second and third paragraphs of section 17 must be met before the refusal of access order can be lifted.

Amended by Regulation of 20 December 2017 No. 2379 (in force on 1 January 2018).

## Section 19

### *Lifting of third refusal of access order*

When the ship is subject to a third refusal of access, the refusal of access order shall be lifted only after a period of 24 months has passed from the date when the decision on the third refusal of access order was made. The refusal of access order will not be lifted before the company has documented that:

- a. the conditions in the second and third paragraphs of section 17 are met;
- b. the ship flies the flag of a State whose detention rate falls neither into the Paris MOU black list nor the grey list;
- c. the ship's statutory certificate and the classification certificate, where appropriate, are issued by an organisation or organisations recognised under Regulation (EC) No 391/2009 of the European Parliament and of the Council of 23 April 2009 on common rules and standards for ship inspection and survey organisations;
- d. the ship is managed by a company with a high performance according to Annex I, Part I.1 to Directive 2009/16/EC.

Amended by Regulation of 20 December 2017 No. 2379 (in force on 1 January 2018).

## Section 20

### *Lifting of refusal of access to port in accordance with section 15*

Refusal of access to port imposed in accordance with section 15 will be lifted when the company has provided evidence that the ship fully complies with the applicable requirements of the Conventions.

## Chapter 6.

### Notes of concern, tips and right of appeal

## Section 21

### *Right of appeal against a decision*

The company or the company's representative in Norway may lodge an appeal against a decision on a detention or refusal of access order made by the Norwegian Maritime Authority. Appeals shall be directed to the Norwegian Maritime Authority.

The lodging of an appeal will not cause the detention or refusal of access to be suspended.

## Section 22

### *Notes of concern*

Any person working on board may submit notes of concern to the Norwegian Maritime Authority. Notes of concern will be considered in accordance with section 4, cf. Directive 2009/16/EC Article 18 and the internal procedure.

## Section 23

### *The right to lodge complaints about a breach of MLC*

Any person working on board a cargo or passenger ship may lodge complaints alleging breaches of the requirements of MLC. The complaint shall be directed to the port State inspector in the port at which the ship has called.

## Chapter 7.

### Final provisions

## Section 24

### *Entry into force*

These Regulations enter into force immediately.

## Section 25

### *Repeal of and amendments to other regulations*

Regulations of 30 December 2010 No. 1849 concerning the control of foreign ships and mobile offshore units in Norwegian ports, etc. are repealed effective from 24 November 2014.