

# **Regulation of 1 July 2003 No. 969 concerning the Control of Foreign Ships and Mobile Offshore Units in Norwegian Ports, etc.**

Laid down by the Norwegian Maritime Directorate on 1 July 2003 pursuant to the Act of 9 June 1903 no. 7 relating to Public Control of the Seaworthiness of Ships, etc. Legal basis amended to Act of 16 February 2007 No. 9 relating to Ship Safety and Security (the Ship Safety and Security Act) sections 2, 44, 45 and 52, cf. Formal Delegation of 16 February 2007 No. 171 and Formal Delegation of 31 May 2007 No. 590 and Act of 26 June 1998 No. 47 relating to Recreational and Small Craft section 20, cf. Formal Delegation of 27 November 1998 No. 1095, Formal Delegation of 29 June 2007, Formal Delegation of 1 December 1998 No. 4532, Formal Delegation of 31 May 2007 No. 591 and Formal Delegation of 29 June 2007 No. 849. Cf. point 56b of Annex XIII to the EEA Agreement (Directive 95/21/EC as amended by Directive 98/25/EC, Directive 98/42/EC, Directive 1999/97/EC, Directive 2001/106/EC and Directive 2002/84/EC), Annex II Ch. XXXII point 1 and Annex XIII, point 55b (Directive 94/57/EC as amended by Directive 2001/105/EC and Directive 2002/84/EC), point 56d (Directive 96/98/EC as amended by Directive 2002/84/EC), point 56f (Directive 98/18/EC as amended by Directive 2002/84/EC), point 56g (Directive 97/70/EC as amended by Directive 2002/84/EC), point 56h (Directive 1999/95/EC), point 56j (Directive 2001/25/EC as amended by Directive 2002/84/EC) and point 55a (Directive 2002/59/EC). Amended 8 December 2003 No. 1737, 22 June 2004 No. 1031, 4 February 2005 No. 96, 7 June 2005 No. 525, 8 November 2005 No. 1415 and 29 June 2007 No 1006 (i.a. legal basis).

## Chapter 1 General provisions

### § 1 *Scope of application*

Substantive scope of application:

Subject to limitations resulting from rules recognized by international law or from an agreement with a foreign State, this regulation applies to the control of foreign ships and mobile offshore units and their crews.

All ships and mobile offshore units are subject to control:

- a) Ships and mobile offshore units falling within the scope of conventions and of 500 gross tonnage and upwards shall be subject to control, but ships of lesser size may be subject to control if the relevant conventions apply to ships or mobile offshore units below this tonnage.
- b) Ships and mobile offshore units falling outside the scope of conventions shall be subject to controls which shall normally be limited to a verification that matters of importance to safety, health and the environment are of an acceptable standard. If a more thorough inspection or measures are considered necessary, such inspection or measures shall be based on the relevant regulations issued in pursuance of the Ship Safety and Security Act, insofar as this is considered justified.

Ships or mobile offshore units from States which are not parties to the conventions shall be subject to the same control which shall not be more favourable than for ships or mobile offshore units from States that are parties to the conventions.

Geographical scope of application:

Controls shall be carried out on ships or mobile offshore units calling at or anchored in Norwegian ports. Where the supervising authority so wishes, controls can also be carried out at offshore loading and unloading installations under Norwegian jurisdiction.

Amended by Regulation of 29 June 2007 No. 1006 (in force on 1 July 2007).

## § 2 *Definitions*

For the purpose of this regulation, the following definitions apply:

- a) *The Administration*: The Government of the State whose flag the ship is entitled to fly.
- b) *Security level*: The current level of protective security measures on ships and mobile offshore drilling units.
- c) *ECSA Agreement*: European agreement on the organization of working time for seafarers, concluded on 30 September 1998 by the European Community Shipowners' Association (ECSA) and the Federation of Transport Workers' Unions in the European Union, representing employers and employees respectively within the maritime sector (FST), annexed to Directive 1999/63/EC of 21 June 1999.
- d) *Mobile offshore drilling unit*: A mobile platform, including drillships, with propulsion machinery and equipped for drilling for subsea petroleum deposits.
- e) *Mobile offshore unit*: A mobile platform, including drillships, equipped for drilling for subsea petroleum deposits, and mobile platforms for use other than drilling for subsea petroleum deposits.
- f) *ILO*: International Labour Organization.
- g) *IMO*: International Maritime Organization.
- h) *ISM Code*: International Safety Management Code for the Safe Operation of Ships and for Pollution Prevention, adopted by the IMO by resolution A.741(18) (International Safety Management Code) and incorporated into chapter IX of the SOLAS Convention (SOLAS 74).
- i) *ISPS Code*: International Ship and Port Facility Security Code, adopted by the IMO, as amended.
- j) *Conventions*:
  - 1. International Convention on Load Lines, 1966 (LL66).
  - 2. International Convention for the Safety of Life at Sea, 1974 (SOLAS 74).
  - 3. International Convention for the Prevention of Pollution from Ships, 1973, as amended by the 1978 Protocol relating thereto (MARPOL 73/78).
  - 4. International Convention on Standards of Training, Certification and Watchkeeping for Seafarers, 1978 (STCW 78).
  - 5. Convention on the International Regulations for Preventing Collisions at Sea, 1972 (Colreg 72).
  - 6. International Convention on Tonnage Measurement of Ships, 1969.
  - 7. The Merchant Shipping (Minimum Standards) Convention, 1976 (ILO No. 147).
  - 8. International Convention on Civil Liability for Oil Pollution Damage (CLC '92) with Protocols and as amended. Conventions of an earlier date within the fields referred to above are also included.
- k) *MOU*: Paris Memorandum of Understanding on Port State Control, signed on 26 January 1982.
- l) *Area*:
  - 1. *Norwegian*: Area subject to Norwegian jurisdiction, including Svalbard and Jan Mayen.
  - 2. *EEA Area*: European Economic Area, comprising the EU and EFTA. In this Regulation, a reference to the EEA area shall also be a reference to Svalbard and Jan Mayen.
  - 3. *MOU Area*: Area subject to the jurisdiction of a state that is a party to the The Paris Memorandum of Understanding on Port State Control, signed on 26 January 1982.
- m) *Passenger ship*: Any ship for which a certificate is required in accordance with the provisions of Chapter VIII of the Act of 9 June 1903 No. 7 relating to Public Control of the Seaworthiness of Ships, etc.
- n) *International Ship Security Certificate (ISSC)*: An international ship security certificate showing that the ship complies with the requirements of the ISPS Code.
- o) *Company*: Cf. the definition given in section 4 of the Ship Safety and Security Act.
- p) *The Ship Safety and Security Act*: Act of 16 February 2007 No. 9 relating to Ship Safety and Security (the Ship Safety and Security Act).
- q) *Target factor*: The value (number) assigned to the ship in accordance with the terms of Annex I to Directive 95/21/EC of 19 June 1995 and entered in the Sirenac information system.
- r) *Detention*: A formal prohibition of a ship or mobile offshore unit to proceed to sea, due to established deficiencies which, individually or together, make the ship or unit unseaworthy.
- s) *Supervisory authorities*: The body which performs supervision in accordance with section 44 of the Ship Safety and Security Act.
- t) *Type-approved*:
  - 1. In respect of equipment covered by the Regulations of 29 December 1998 No. 1455 concerning marine equipment: Type-approved by a Notified Body and marked in accordance with the said regulations.
  - 2. In respect of other equipment: Approved by the Norwegian Maritime Directorate.
- u) *Clear grounds*: Instances in which the supervising authority, in accordance with guidelines (Annex III to Directive 95/21/EC of 19 June 1995) and its professional judgement, finds evidence that warrants a more detailed inspection of a ship or mobile offshore unit, its equipment or crew.

### § 3

#### *Responsibility*

Foreign ships and mobile offshore units calling at or anchored or berthed in a Norwegian port or at a Norwegian offshore loading and unloading installation shall satisfy Norwegian and international requirements relating to the safety of ships, protection of the marine environment, and health and working conditions on board.

Ships and mobile offshore units which, under the port State control of another State, are found not to comply with the above requirements, shall report such noncompliance to the supervising authority. Where such reports are not forthcoming, the ship may be refused access to any Norwegian port.

As documentation of compliance with international requirements applicable to ships and mobile offshore units and relating to the safety of ships, protection of the marine environment, and health and working conditions on board, foreign ships shall carry on board the relevant certificates in accordance with the conventions. Where such documents are not produced, the ship may be refused access to any Norwegian port.

The responsible persons on board shall make the necessary arrangements for an inspection to be carried out in accordance with this regulation.

### § 4

#### *Exemptions*

The Norwegian Maritime Directorate may, in individual cases and upon written application, grant exemption from the requirements of this regulation. There must be special reasons that make the exemption necessary and it must be justifiable in terms of safety. Exemptions can only be granted where they do not contravene international agreements to which Norway has acceded.

## Chapter 2

### Procedure, extent etc. of inspections

### § 5

#### *Procedure of inspections by supervising authority*

The supervising authority, which shall consist of a suitable number of qualified inspectors, shall inspect at least 25 per cent of the average annual number of individual vessels calling at Norwegian ports, calculated on the basis of the three most recent calendar years for which statistics are available.

In order to be able to carry out an inspection in accordance with this regulation, the supervising authority is authorized to go on board foreign ships or mobile offshore units. For inspections carried out in this connection, section 45 of the Ship Safety and Security Act shall apply insofar as this is considered necessary to ensure compliance with the requirements laid down in this regulation.

The procedure of inspections shall be such that all appropriate measures are taken to avoid unnecessary inconvenience or delay of the ship. In the event of such inconvenience or delay the company shall be entitled to compensation for any loss suffered. The burden of proof shall rest on the company.

Amended by regulation of 4 February 2005 No. 96 and 29 June 2007 No. 1006 (in force on 1 July 2007).

### § 6

#### *Investigation by supervising authority of incident at the request of another State*

If unlawful discharge, in violation of the conventions, is suspected to have occurred in the internal waters, territorial waters or economic zone of another State, or there is a risk that such an incident may occur there, an investigation shall be carried out when such action is requested by the State concerned. The same applies to cases where such investigation is requested by the flag State, regardless of where the violation occurred.

### § 7

#### *Selection of ships for inspection*

Any ship or mobile platform not subject to an expanded inspection with a target factor greater than 50 in the Sirenac information system shall be inspected in accordance with § 9, provided that a period of at least one month has elapsed since the last inspection carried out in a port in the MOU region. This does not, however, apply to cases where the supervising authority is not able to carry out such inspection as set out in § 13.

With the exception of operational control, other ships and mobile offshore units shall not be subject to any control if they have been inspected within the EEA in the course of the preceding six months, provided that the ship does not belong to any of the following groups, namely vessels

- a) falling within the scope of § 8; or
- b) which have been reported from an earlier inspection as having deficiencies; or
- c) for which there are clear grounds for performing an inspection.

## § 8

### *Priority for inspection*

*Overriding priority for inspection:*

Regardless of the value of the target factor, the following ships or mobile platforms shall be the first to be selected for inspection:

- a) Ships which have been reported by pilots or port authorities because they are likely to have deficiencies which may prejudice their safe navigation (pursuant to Directive 2002/59/EC of 27 June 2002 and Article 13 of the Directive).
- b) Ships which do not comply with the obligations laid down in Directive 2002/59/EC of 27 June 2002<sup>1</sup>.
- c) Ships which have been reported by another State within the EEA.
- d) Ships which have been reported by the master, a crew member, or any person or organization with a legitimate interest in the safe operation of the ship, shipboard living and working conditions or protection of the marine environment, unless the member State concerned deems the report to be manifestly unfounded. The identity of the reporting person must not be revealed to the master or the owner of the ship concerned.
- e) Ships which have been involved in a collision, grounding or stranding on their way to the port and manoeuvred in an erratic or unsafe manner whereby routing measures, adopted by the IMO, or other safe navigation practices and procedures have not been followed.
- f) Ships which have otherwise operated in such a manner as to pose a danger to persons, property or the environment.
- g) Ships which for safety reasons have been temporarily suspended or deleted from class in the course of the preceding six months.

*Priority for inspection:*

Ships other than those mentioned above shall be considered as priority for inspection in relation to the target factor of the ship concerned, i.e. a higher target factor means a higher priority for inspection:

- a) Ships visiting a port of a State which is party to the MOU for the first time after an absence of 12 months or more. Member States shall also take into account other inspections which have been carried out within the MOU. In the absence of appropriate data, Member States shall rely upon the relevant Sirenac data and if such data are not available the ship shall be inspected.
- b) Ships not inspected within the previous six months.
- c) Ships provided with certificates issued by an organization which is not recognized under the terms of Directive 94/57/EC of 22 November 1994 as amended by Directive 2001/105/EC<sup>2</sup>.
- d) Ships flying the flag of a State appearing in the black list contained in the annual IMO report.
- e) Ships which have been permitted to leave the port of a Member State on certain conditions, such as
  - defects and deficiencies to be rectified before departure;
  - defects and deficiencies to be rectified at the next port of call;
  - defects and deficiencies to be rectified within 14 days;
  - defects and deficiencies for which other conditions have been specified.If ship-related action has been taken and all defects and deficiencies have been rectified, this shall be taken into account.
- f) Ships for which deficiencies have been recorded during a previous inspection, according to the number of deficiencies.
- g) Ships which have been detained in a previous port.
- h) Ships flying the flag of a country which has not ratified the conventions referred to in § 1 second paragraph, subparagraph b), ref. § 2 subparagraph g).
- i) Ships classed with classification society with deficiency ratio above average.
- j) Ships which are in a category for which expanded inspection has been decided (see § 11)
- k) Other ships more than 13 years old.

Subparagraphs e), f) and g) shall only apply to inspections carried out in the last 12 months. The overall target factor shall not be less than the sum of the values established for subparagraphs c), d), h), i), j), and k).

Inspections shall be carried out in accordance with the guidelines currently in force regarding the procedure for control of ships and mobile offshore units, issued by the IMO, ILO and MOU.<sup>3</sup>

Amended by regulations of 22 June 2004 No. 1031 (in force on 1 July 2004) and 4 February 2005 No. 96.

<sup>1</sup> The Directive lays down minimum requirements for ships calling at or departing from ports with dangerous or polluting substances. In such cases the pilot is required to report any deficiencies which may influence the safety of navigation.

<sup>2</sup> The Directive lays down common rules and standards for organizations carrying out inspection on behalf of maritime administrations. A list of the organizations has been prepared.

<sup>3</sup> Res. A.890(21)) and Annexes – International Maritime Dangerous Goods Code – ILO publication 147 «Inspection of Labour Conditions on Board Ship Guidelines for Procedure» – MOU Annex I «Port State Control Procedures».

## § 9

### *Inspection*

The supervising authority shall

- a) inspect certificates and documents subject to requirements under the conventions and Appendix 1 to this regulation;
- b) assess the general standard of the ship or mobile offshore unit, its equipment, the size and qualifications of the crew, and working conditions;
- c) comply with the requests of States pursuant to § 6; and
- d) follow standard procedures for the inspection of ships<sup>1</sup> in accordance with Directive 95/21/EC of 19 June 1995, Annex IV, and Directive 2001/25/EC of 4 April 2001, ref. Article 17 (f) and Article 20.

Amended by regulations of 22 June 2004 No. 1031 (in force on 1 July 2004), 7 June 2005 No. 525, 8 November 2005 No. 1415 and 29 June 2007 No. 1006 (in force on 1 July 2007).

<sup>1</sup> See Principles of safe manning (IMO res. A.890(21) and Annexes which are contents of Minimum Safe manning Document (Annex 1) and Guidelines for the Application of Principles of Safe Manning (Annex 2). – The provisions of the International Maritime Dangerous Code. – International Labour Organization (ILO) publication « Inspection of Labour Conditions on Board Ship: Guidelines for procedures ». – Annex I, « Port State Control Procedures » to the Paris MOU and Section A of the STCW Code. Special consideration shall be given to the watchkeeping standards if the ship has been involved in an incident where there are clear grounds to assume that the crew do not have the necessary competence. The crew may be requested to prove their qualifications. Furthermore, their language skills shall be considered in relation to Sections A V/2 and 3, paragraph 3.

## § 10

### *More detailed inspection*

A more detailed inspection shall be carried out when there are clear grounds<sup>1</sup> to assume that the ship or mobile offshore unit, its type-approved equipment, crew or working conditions do not comply with the relevant requirements of the conventions.

Amended by regulations of 22 June 2004 No. 1031 (in force on 1 July 2004).

<sup>1</sup> See MOU Annex I Section 5.

## § 11

### *Expanded inspection and mandatory expanded inspection*

An expanded inspection may be carried out for the categories of ships listed below:

- a) gas and chemical carriers older than ten years of age, as determined on the basis of the date of construction indicated in the ship's safety construction certificate;
- b) bulk carriers, older than 12 years of age, as determined on the basis of the date of construction indicated in the ship's safety construction certificate;
- c) oil tankers of 3,000 gross tonnage or above which are older than 15 years of age, as determined on the basis of the date of construction indicated in the ship's safety construction certificate; and
- d) passenger ships older than 15 years of age other than the passenger ships falling within the scope of Directive 1999/35/EC 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 (host State control); and only after a period of 12 months has elapsed since the last expanded inspection in a port of an MOU State.

An expanded inspection of a ship in any of the above categories shall be carried out where the ship concerned has a priority according to § 8 or a target factor of 7 or more.

An expanded inspection shall be carried out in conformity with the procedures of Directive 95/21/EC of 19 June 1995, Annex V, Part C (ref. Appendix 2 to this regulation).

An inspection according to § 9 may be carried out at any time between two expanded inspections.

## § 12

### *Information to be notified for expanded inspection purposes*

The company or master of a ship, in the case of ships or mobile offshore units which may be subject to an expanded inspection according to § 11 and which calls at a port within the EEA after a period of 12 months since the last expanded inspection, shall communicate information about the ship's name, flag, IMO identification number, if any, tonnage, date of construction, time of arrival at the port of destination or pilot station, planned duration of the call, planned operations, planned survey inspections and substantial maintenance and repair work to be carried out. For tankers, information shall also be provided on the ship's configuration, the condition of its cargo and ballast tanks, and the volume and nature of the cargo.

The information referred to above shall be provided at least three days before the expected time of arrival in the port or before leaving the previous port if the voyage is expected to take fewer than three days.

Any ship or mobile offshore unit not complying with the provisions of the first and second paragraphs shall be subject to an expanded inspection.

Amended by regulation of 29 June 2007 No. 1006 (in force on 1 July 2007).

## § 13

### *Procedure in case certain ships cannot be inspected*

In cases where, for operational reasons, it is impossible to carry out an inspection of a ship or mobile offshore unit covered by § 7 first paragraph or a ship or mobile offshore unit which is subject to a mandatory expanded inspection as referred to in § 11 second paragraph, the Sirenac system shall be informed without delay that such inspection did not take place.

Such cases shall be notified, at intervals of six months, to the EFTA Surveillance Authority (ESA), together with the reasons for not inspecting the ships or mobile offshore units concerned.

During any calendar year, such non-inspections shall not exceed 5 % of the average annual number of individual ships eligible for the inspections referred to in the first paragraph and calling at a port within the EEA, calculated on the basis of the three most recent calendar years for which statistics are available.

Ships or mobile offshore units not inspected in accordance with the first paragraph shall be inspected in the next port of call within the EEA.

## § 14

### *Supervision of provisions relating to hours of work and rest*

The supervising authority shall inspect ships calling at Norwegian ports to supervise their compliance with the ECSA Agreement.

When an inspection is carried out to find evidence that a ship does not comply with the requirements of the ECSA Agreement, the inspection shall include verification that:

- a) an overview of the working arrangements on board is posted in a readily accessible place;
- b) there are records of the seafarers' hours of work or rest and that such documents are endorsed by the Administration; and
- c) the overview and records as mentioned in subparagraphs a) and b) are made in the working language(s) of the ship and in the English language and in conformity with Annex I and Annex II to Directive 1999/95/EC of 13 December 1999.

If the supervising authority receives a complaint or there is reason to believe, on the basis of the supervising authority's own observations on board, that the seafarers are unreasonably tired, a more detailed inspection shall be carried out in accordance with the second paragraph to ascertain whether the hours of work or rest entered in the records are in accordance with the standards laid down in the ECSA Agreement and that the standards are complied with. In this connection, consideration shall be given to other documentary evidence of the ship's operation.

If the supervising authority receives a complaint which it does not consider to be clearly unfounded, or it possesses evidence that a ship calling at Norwegian port does not comply with the requirements of the ECSA Agreement, it shall prepare a report to the Administration. Where an inspection performed in accordance with the second or third paragraph produces the necessary evidence, the supervising authority shall take such action as is deemed necessary to ensure correction of those conditions on board that clearly constitute a hazard to the safety or health of the crew members.

The identity of the person making the complaint must not be revealed to the master or the owner of the ship concerned.

## Chapter 3

### Reporting, detention and other measures

#### § 15

##### *Reporting*

On completion of an inspection, a more detailed inspection and/or an expanded inspection, the master of the ship shall be provided with an inspection report in accordance with Directive 95/21/EC of 19 June 1995 giving the results of the inspection (ref. Appendix 3 to this regulation). This report shall contain details of the inspection and any follow-up action to be taken by the ship's master, owner or operator.

In the case of deficiencies warranting the detention of the ship, the report shall include information about the possible publication of the detention.

#### § 16

##### *Detention*

The provisions of section 52 of the Ship Safety and Security Act regarding the detention of ships are applicable to foreign ships and mobile offshore units. A ship or mobile offshore unit having deficiencies which are clearly hazardous to safety, health and/or the environment shall be detained. A hazardous operation shall be stopped. The detention order or stoppage of an operation shall not be lifted until the hazard has been removed or until the supervising authority has permitted the ship or mobile offshore unit, subject to any necessary conditions, to proceed to sea or continue the operation. Such permission shall be given only on the condition that it will not cause a hazard to safety or health, a risk to other ships or an unreasonable threat of harm to the marine environment. Guidelines for criteria forming the basis for detentions are set out in MOU Annex 1 and Directive 95/21/EC of 19 June 1995, Annex VI, and Directive 2001/25/EC of 4 April 2001, ref. Article 21.

A ship or mobile offshore unit which under the conventions is subject to the requirements of the ISM Code but which is not provided with certificates issued under the Code shall be detained.

A ship or mobile offshore unit which is not provided with a properly functioning voyage data recorder (VDR system), where such equipment is mandatory under Directive 95/21/EC of 19 June 1995, Annex XII, shall be detained.

A ship or mobile offshore unit shall not be detained if the reason for the detention is an incident which occurred under way to the port, when

- a) notification is given to the flag State, the designated surveyor or the recognized survey institution in accordance with SOLAS 74 regulation I/11c;
- b) the company or master has provided the port State with details of the incident and the damage and information on the notification of the flag State;
- c) appropriate precautionary measures are taken to the satisfaction of the port State; and
- d) the port State is satisfied that deficiencies that clearly constitute a hazard to safety, health and the environment are corrected.

In exceptional circumstances, where the overall impression is that the ship is obviously substandard, further inspection may be suspended until the responsible party demonstrates that the ship complies with the requirements of the conventions.

Amended by regulation of 7 June 2005 No. 525 and 29 June 2007 No. 1006 (in force on 1 July 2007).

#### § 17

##### *Procedure of detention*

When an inspector, in exercising his or her professional judgment, considers whether or not a ship or mobile offshore unit should be detained, the inspector shall apply the criteria set out in Annex VI to Directive 95/21/EC of 19 June 1995 and the MOU manual, section 9.

In the event of detention etc., the master of the ship or mobile offshore unit shall be notified immediately, in writing, of the reason for the measure taken, and shall be informed of the right to lodge appeals pursuant to Chapter VI of the Public Administration Act.

If the detention has already been implemented, the master shall be given a list of the recommendations to be complied with before the ship or mobile offshore unit is permitted to proceed to sea.

Amended by regulations of 7 June 2005 No. 525 and 29 June 2007 No. 1006 (in force on 1 July 2007).

## § 18

### *Notification of measures taken*

Where a measure has been taken in accordance with § 16 and § 17 herein the official who has carried out the inspection shall immediately notify the Norwegian Maritime Directorate, attn. Inspection Department.

The Administration, the consul or the nearest diplomatic representative of the State whose flag the ship or mobile offshore unit flies, shall be notified immediately, in writing by forwarding of the inspection report, of the decision and of the circumstances in which intervention was deemed necessary. Such notification shall be given by the Norwegian Maritime Directorate if this is possible without undue delay, or direct by the official involved.

The Administration or, where relevant, the organization which has issued the certificates, shall be notified by the Norwegian Maritime Directorate of the measure taken and the reasons for such measure.

The Norwegian Maritime Directorate shall report the measures taken to the IMO according to the guidelines currently applied by the organization. Additionally, information as set out in Annex X to Directive 95/21/EC of 19 June 1995 shall be reported annually, by 1 April, to the EFTA Surveillance Authority (ESA).

The Norwegian Maritime Directorate shall notify EEA member countries of equipment which is not type-approved in accordance with the Regulations of 29 December 1998 No. 1455 concerning marine equipment.

## § 19

### *Follow-up to inspection and detention*

The company or master of the ship shall provide evidence to the supervising authority that defects and deficiencies found at inspections pursuant to § 7 and § 11 are or will be rectified in accordance with the conventions.

Where recommendations cannot be followed up in the port of inspection, the supervising authority may allow the ship or mobile offshore unit to proceed to the nearest appropriate repair yard available. In such circumstances all precautions must be taken to ensure that the ship or mobile offshore unit does not represent any risk to safety, health or other ships or an unreasonable threat of harm to the marine environment. In such cases, the supervising authority shall follow up by ensuring that the ship or mobile offshore unit is refused access to ports within the EEA until it has produced evidence of compliance with the conventions to the port State control authorities of the port where the inspection was carried out.

Where compliance with the VDR requirement cannot be ensured in the port concerned, the supervising authority may permit the ship or mobile offshore unit to proceed to the next port or require the installation to be performed within 30 days. The procedure shall be according to the guidelines of MOU Annex 2.

Information about recommendations and any conditions applying to them, and any relevant information about the ship or mobile offshore unit, shall be communicated to the authorities in the next port of call, the Administration or its representative, or the authorities of any other State whose interests are affected. Guidelines for this information are set out in MOU Annex 2.<sup>1</sup>

A ship or mobile offshore unit which is detained on grounds of deficient ISM certification may be permitted by the supervising authorities to depart provided that there are no other deficiencies which constitute a hazard to safety or may cause damage to the marine environment. Such lifting of detention shall immediately be communicated to other EEA member countries. In such cases, the supervising authority shall follow up by ensuring that the ship is refused access to ports within the EEA until it has produced evidence of compliance with the certification requirements of the ISM Code to the port State control authorities of the port where the inspection was carried out.

Amended by regulation of 29 June 2007 No. 1006 (in force on 1 July 2007).

<sup>1</sup> The next port of call within the MOU area which has received information about recommendations will report back on the follow-up measures taken.

## § 20

### *Refusal of access to ports*

A ship or mobile offshore unit for which a recommendation is issued at a port State inspection carried out by another EEA member country, the ship or unit then being permitted to proceed to a specific port to undergo repairs or to depart despite deficient ISM certification; where such ship or unit subsequently fails to

- a) comply with the recommendations issued;
  - b) call at the specific port to undergo repairs; or
  - c) hold valid certificates issued under the ISM Code
- it shall be refused access to any Norwegian port until the company has produced documentary evidence of compliance with all relevant requirements of international conventions to the port where the inspection was carried out and the recommendations issued.

With the exception of emergencies, all gas carriers, chemical tankers, bulk carriers, oil tankers and passenger ships shall be refused access to Norwegian ports if the ship either:

- a) flies the flag of a State appearing in the black list as published in the annual report of the MOU, and
- b) has been detained more than twice in the course of the preceding 24 months in a port of a State signatory of the MOU,

or



- a) flies the flag of a State described as “very high risk” or “high risk” in the black list as published in the annual report of the MOU, and
- b) has been detained more than once in the course of the preceding 36 months in a port of a State signatory of the MOU.

The refusal of access shall become applicable immediately after the ship has been authorized to leave the port where it has been the subject of a second or third detention, as appropriate, and shall be carried out in accordance with the procedures of Annex XI to Directive 95/21/EC of 19 June 1995 (ref. Appendix 4 to this regulation).

Amended by regulation of 29 June 2007 No. 1006 (in force on 1 July 2007).

## § 21

### *Qualifications*

The person inspecting ships or mobile offshore units shall be qualified and authorized in accordance with the MOU guidelines and Directive 95/21/EC of 19 June 1995, Annex VII. If the authorized inspector does not possess the necessary expertise for the survey to be carried out, he may be assisted by any person with the required expertise. Such persons shall have no commercial interest in the ship or inspection.

Amended by regulation of 22 June 2004 No. 1031 (in force on 1 July 2004).

## § 22

### *Cooperation*

The supervising authority shall cooperate with port authorities, other relevant authorities and private organizations to ensure the provision of all relevant information about any ship or mobile offshore unit calling at its ports. EEA member countries shall maintain provisions for the exchange of information and cooperation between their own authorities and all authorities of other EEA member countries and maintain the established operational link between their competent authority, the Commission and the Sirenac information system.

Inspectors shall consult the public and private databases relating to ship inspection accessible through the Equasis information system in respect of inspections falling within the scope of § 7 and § 11.

Amended by regulation of 4 February 2005 No. 96.

## § 23

### *Publication of information*

Through available channels, the Norwegian Maritime Directorate shall ensure the monthly publication of information on detained ships or ships refused access to ports with regard to the items set out in Directive 95/21/EC of 19 June 1995, Annex VIII Part I. The information in Annex VIII Parts I and II and information on any change of class or suspension or exclusion from class in accordance with art. 15 para. 3 in Directive 94/57/EC of 22 November 1994 shall be available in the Sirenac information system. The same information shall be published through the information system Equasis as soon as possible after the inspection is completed or the detention lifted.

Amended by regulations of 22 June 2004 No. 1031 (in force on 1 July 2004) and 4 February 2005 No. 96.

## § 24

### *Reporting by police, port and customs authorities, pilot service and coastguard*

Police, port and customs authorities, pilots and coastguard officials which in the course of their duties learn that a ship or mobile offshore unit has such defects or deficiencies as may give rise to doubt as to its seaworthiness, shall immediately inform the Norwegian Maritime Directorate's head office or the Norwegian Maritime Directorate's nearest local office (station).

## Chapter 4

### Inspection regarding protective security measures

Chapter added by regulation of 22 June 2004 No. 1031 (in force on 1 July 2004).

## § 25

### *Relationship to international provisions*

(1) Ships and mobile offshore drilling units covered by this regulation may be subject to

control measures pursuant to the relevant requirements of SOLAS Regulation XI-2/9. Ships and mobile offshore drilling units shall furthermore comply with the directions and provide the information required by the relevant authorities pursuant to these provisions.

(2) Inspections pursuant to this regulation shall comply with the established procedures pursuant to IMO Res. MSC.159(78) and the relevant guidelines of the Paris MOU.

Added by regulation of 22 June 2004 No. 1031 (in force on 1 July 2004).

## § 26

### *Inspection in port*

The supervising authority may by inspection investigate whether ships and mobile offshore drilling units keep a valid International Ship Security Certificate (ISSC) on board or a temporary ship security certificate pursuant to Part A of the ISPS Code.

Added by regulation of 22 June 2004 No. 1031 (in force on 1 July 2004).

## § 27

### *Extended inspection in port*

An extended inspection shall take place when there are clear grounds to suspect that a ship or a mobile offshore drilling unit does not meet the relevant requirements of Part A of the ISPS Code or when a valid certificate cannot be produced.

Added by regulation of 22 June 2004 No. 1031 (in force on 1 July 2004).

## § 28

### *Measures following an extended inspection in port*

(1) Measures imposed following an extended inspection shall be proportionate and comply with SOLAS Regulation XI-2/9 and the guidance set out in Part B of the ISPS Code.

(2) An extended inspection may lead to the following measures:

- a) An inspection of the ship itself or the mobile offshore drilling unit;
- b) a delay of the ship or the mobile offshore drilling unit;
- c) a detention of the ship or the mobile offshore drilling unit;
- d) a restriction on operations, including movements in port;
- e) an eviction from port.

(3) Other, less intervening measures of an administrative or corrective nature may also be imposed.

Added by regulation of 22 June 2004 No. 1031 (in force on 1 July 2004).

## § 29

### *Ships or mobile offshore drilling units intending to call at a port*

(1) Unless a ship or a mobile offshore drilling unit has been granted an exemption, the master intending to call at a port shall provide the following information:

- a) that the ship or the mobile offshore drilling unit holds a valid certificate and the name of the issuing authority;
- b) the security level at which the ship or the mobile offshore drilling unit is operating;
- c) the security level at which the ship or the mobile offshore drilling unit has been operating in any previous port in which it has conducted ship/port operations, for the last 10 ports of call;
- d) regarding special or particular security measures the ship or the mobile offshore drilling unit has implemented in any previous port where it has conducted ship/port operations, for the last 10 ports of call;
- e) that satisfactory security procedures have been implemented during ship/ship operations for the last 10 ports of call;
- f) other information relating to security that does not constitute details from the ship security plan. This shall take place in accordance with the guidance set out in Part B of the ISPS Code.

(2) The authorities may require that the above-mentioned information is verified by the master or the company.

(3) Such information shall be provided in the following manner:

- a) at least 24 hours in advance, or
- b) at the time of the ship's departure from the previous port at the latest, if the voyage is shorter than 24 hours, or
- c) if the port of call is unknown or changed during the voyage, as soon as the port of call becomes known.

(4) The master may refuse to provide the authorities with the above-mentioned information, in which case the ship or the mobile offshore drilling unit may be refused access to port.

(5) If there are clear grounds to suspect that a ship or a mobile offshore drilling unit intending to call at a port does not meet the relevant requirements of Part A of the ISPS Code, the authorities shall attempt to establish contact between ship and authority in order to rectify the omission.

(6) If the omission cannot be remedied through such a contact or if the authorities otherwise have clear grounds to suppose that the ship or the mobile offshore drilling unit does not meet the relevant requirements of Part A of the ISPS Code, measures may be imposed on the ship or the mobile offshore drilling unit. The measures shall be proportionate and take account of the guidance set out in part B of the ISPS Code. The following measures can be taken:

- a) Correction of the omission;
- b) relocation elsewhere in territorial waters or internal waters;
- c) inspection of the ship or the mobile offshore drilling unit in territorial waters;
- d) refusal of access to port.

(7) Before such measures are taken, the master of the ship or the mobile offshore drilling unit shall be informed of the measure. Following the receipt of such information, the master may withdraw the decision to call at port. In such cases, this provision does not apply.

Added by regulation of 22 June 2004 No. 1031 (in force on 1 July 2004), amended by regulation of 29 June 2007 No. 1006 (in force on 1 July 2007).

## § 30

### *Notification of measures*

(1) In cases of measures pursuant to § 28 second paragraph and § 29 sixth paragraph, the Administration shall be notified in writing of which measures have been implemented and the reason for their implementation. Furthermore, the recognized security organisation that issued the certificate and the IMO shall be notified.

(2) When a ship or a mobile offshore drilling unit has been refused access to port or evicted from port, the Norwegian Maritime Directorate shall notify the European Commission and the following countries thereof: All EU countries, Iceland, Russia, the USA and Canada.

(3) In accordance with the provisions of SOLAS Regulation XI-2/9, a refusal of access to port and an eviction from port may only take place in those cases where there are clear grounds to assume that a ship or a mobile offshore drilling unit constitutes an immediate terrorist threat to human life, ships or other property, and the threat cannot be removed by other means.

Added by regulation of 22 June 2004 No. 1031 (in force on 1 July 2004).

## Chapter 5

### Concluding provisions

Amended by regulation of 22 June 2004 No. 1031 (in force on 1 July 2004, previously Chapter 4).

## § 31

### *Entry into force, etc.*

This regulation enters into force on 1 July 2003.

As from the same date, the Regulations of 1 July 1996 No. 774 concerning the Control of Foreign Ships and Mobile Offshore Units in Norwegian Ports, etc., are repealed.

This regulation shall enter into force for foreign ships at Svalbard and Jan Mayen from the date decided by the King.

Amended by regulations of 22 June 2004 No. 1031 (in force on 1 July 2004, previously § 26) and 29 June 2007 No. 1006 (in force on 1 July 2007).

## Appendix 1

### **List of certificates and documents**

List of certificates and documents

1. International Tonnage Certificate (1969)
2. Passenger Ship Safety Certificate;
  - Cargo Ship Safety Construction Certificate,
  - Cargo Ship Safety Equipment Certificate,
  - Cargo Ship Safety Radiotelegraphy Certificate,
  - Cargo Ship Safety Radiotelephony Certificate,
  - Cargo Ship Safety Radio Certificate,
  - Exemption Certificate, including where appropriate the list of cargoes,
  - Cargo Ship Safety Certificate.

3. International Certificate of Fitness for Carriage of Liquefied Gases in Bulk;
  - Certificate of Fitness for the Carriage of Liquefied Gases in Bulk.
4. International Certificate of Fitness for the Carriage of Dangerous Chemicals in Bulk;
  - Certificate of Fitness for the Carriage of Dangerous Chemicals in Bulk.
5. International Oil Pollution Prevention Certificate.
6. International Pollution Prevention Certificate for the Carriage of Noxious Liquid Substances in Bulk.
7. International Load Line Certificate (1966);
  - International Load Line Exemption Certificate.
8. Oil record book, parts I and II.
9. Cargo record book.
10. Minimum Safe Manning Document.
11. Certificates issued in accordance with the STCW Convention.
12. Medical certificates (see ILO Convention No 73 concerning Medical Examination of Seafarers).
13. Stability information.
14. Copy of Document of Compliance and Safety Management Certificate issued in accordance with The International Management Code of the Safe Operation of Ships and for Pollution Prevention (SOLAS, Chapter IX).
15. Certificates as to the ship's hull strength and machinery installations issued by the classification society in question (only to be required if the ship maintains its class with a classification society).
16. Document of compliance with the special requirements for ships carrying dangerous goods.
17. High speed craft safety certificate and permit to operate high speed craft.
18. Dangerous goods special list or manifest, or detailed stowage plan.
19. Ship's logbook with respect to the records of tests and drills and the log for records of inspection and maintenance of life-saving appliances and arrangements.
20. Special purpose ship safety certificate.
21. Mobile offshore drilling unit safety certificate.
22. For oil tankers, the record of oil discharge monitoring and control system for the last ballast voyage.
23. The muster list, fire control plan, and for passenger ships, a damage control plan.
24. Shipboard oil pollution emergency plan.
25. Survey report files (in case of bulk carriers and oil tankers).
26. Reports of previous port State control inspections.
27. For ro-ro passenger ships, information on the A/A maximum ratio.
28. Document of authorization for carriage of grain.
29. Cargo Securing manual.
30. Garbage management plan and garbage record book.
31. Decision support system for masters of passenger ships.
32. SAR cooperation plan for passenger ships trading fixed routes.
33. List of operational limitations for passenger ships.
34. Bulk carrier booklet.
35. Loading and unloading plan for bulk carriers.
36. Certificate of insurance or any other financial security in respect of civil liability for oil pollution damage (International Convention on Civil Liability for Oil Pollution Damage, 1992).

Appendix 1 amended by regulation of 4 February 2005 No. 96.

## Appendix 2

### **Procedures relating to expanded inspection of certain categories of ships**

Subject to their practical feasibility or any constraints relating to the safety of persons, the ship or the port, the following items at least must be part of an expanded inspection:

1. SHIPS IN GENERAL (categories in section A)
  - Black-out and start of emergency generator,
  - inspection of emergency lighting,
  - operation of emergency fire-pump with two fire hoses connected to the fire main-line,
  - operation of bilge pumps,
  - closing of watertight doors,
  - lowering of one lifeboat to the water,
  - test of remote emergency stop for, e.g., boilers, ventilation and fuel pumps,
  - testing of steering gear including auxiliary steering gear,
  - inspection of emergency source of power to radio installations,

- inspection and, to the extent possible, test of engine room separator.

## 2. GAS AND CHEMICAL TANKERS

In addition to the items listed under section 1 of this Appendix, the following items are to be considered as part of the expanded inspection for gas and chemical tankers:

- cargo tank monitoring and safety devices relating to temperature, pressure and ullage,
- oxygen analysing and explosimeter devices, including their calibration. Availability of chemical detection equipment (bellows) with an appropriate number of suitable gas detection tubes for the specific cargo being carried,
- cabin escape sets giving suitable respiratory and eye protection for every person on board (if required by the products listed on the International Certificate of Fitness or Certificate of Fitness for the Carriage of Dangerous Chemicals in Bulk or Liquefied Gases in Bulk, as applicable),
- check that the product being carried is listed in the International Certificate of Fitness or Certificate of Fitness for the Carriage of Dangerous Chemicals in Bulk or Liquefied Gases in Bulk, as applicable,
- the fixed fire-fighting installations on deck, whether they be foam or dry chemical or other as required by the product carried.

## 3. BULK CARRIERS

In addition to the items listed under section 1 of this Appendix, the following items are to be considered as part of the expanded inspection for bulk carriers:

- possible corrosion of deck machinery mountings,
- possible deformation and/or corrosion of hatch covers,
- possible cracks or local corrosion in transverse bulkheads,
- access to cargo holds,
- verification that the following documents are on board, review them and confirm that the flag State or classification society has endorsed them:
  - a) reports of structural surveys,
  - b) condition evaluation reports,
  - c) thickness measurement reports,
  - d) descriptive document referred to by IMO resolution A.744(18).

## 4. OIL TANKERS

In addition to the items listed under section 1 of this Appendix, the following items are to be considered as part of an expanded inspection of oil tankers:

- fixed deck foam system,
- fire-fighting equipment in general,
- inspection of fire dampers in engine room, pump room and accommodation,
- control of pressure of inert gas and oxygen content thereof,
- ballast tanks: at least one of the ballast tanks within the cargo area to be examined from tank manhole/deck access in first instance and entered if inspector establishes clear ground for further inspection,
- verification that the following documents are on board, review them and confirm that the flag State or classification society has endorsed them:
  - a) reports of structural surveys,
  - b) condition evaluation reports,
  - c) thickness measurement reports,
  - d) descriptive document referred to by IMO resolution A.744(18).

## 5. PASSENGER SHIPS NOT COVERED BY DIRECTIVE 1999/35/EC OF 29 APRIL 1999

In addition to the items listed under section 1 of this Appendix, the following items are to be considered as part of the expanded inspection for passenger ships:

- testing of fire detection and alarm system,
- testing of proper closing of fire doors,
- test of public address system,
- fire drill where, as a minimum, all sets of firemen's outfits must be demonstrated and part of the catering crew take part,
- demonstration that key crew members are acquainted with the damage control plan.

If deemed appropriate, the inspection may be continued while the ship is on passage to or from the port in the Member State, with the consent of the company or the master. Inspectors must not obstruct the operation of the ship, nor must they induce situations that, in the master's judgement, could endanger the safety of the passengers, the crew and the ship.

Inspectors must be aware that it may jeopardise the safe execution of certain on-board operations, e.g. cargo handling, if tests having a direct effect thereon are required to be carried out during such operations.

## Appendix 3

### Inspection report

The inspection report must contain at least the following items:

#### I. *General*

1. Competent authority that wrote the report
2. Date and place of inspection
3. Name of the ship inspected
4. Flag
5. Type of ship
6. IMO number
7. Call sign
8. Tonnage (gt)
9. Deadweight tonnage (where relevant)
10. Year of construction as determined on the basis of the date indicated in the ship's safety certificates
11. The classification society or classification societies, where relevant, which has/have issued to this ship the class certificates, if any
12. The classification society or classification societies and/or any other party which has/have issued to this ship certificates in accordance with the applicable conventions on behalf of the flag State
13. Name and address of the company
14. Name and address of the charterer responsible for the selection of the vessel and type of charter in the case of ships carrying liquid or solid cargoes in bulk
15. Final date of writing the inspection report
16. Indication that detailed information on an inspection or a detention may be subject to publication.

#### II. *Information relating to inspection*

1. Certificates issued in application of the relevant international conventions, authority or organization that issued the certificate(s) in question, including the date of issue and expiry
2. Parts or elements of the ship that were inspected (in the case of more detailed or expanded inspection)
3. Type of inspection (inspection, more detailed inspection, expanded inspection)
4. Nature of the defects and deficiencies
5. Measures taken.

#### III. *Additional information in the event of detention*

1. Date of detention order
2. Date of lifting the detention order
3. Nature of the defects and deficiencies warranting the detention order (references to Conventions, if relevant)
4. Information on the last intermediate or annual survey
5. Indication, where relevant, of whether the classification society or any other private body that carried out the survey has a responsibility in relation to the deficiencies which, alone or in combination, led to detention
6. Measures taken.

## Appendix 4

### Procedures relating to refusal of access to Community ports

1. If the provisions of § 20 are applicable, the competent authority of the port in which the ship is detained for the second or third time, as appropriate, must inform the company or the master of the ship in writing of the access refusal order served on the ship.  
The competent authority must also inform the flag State administration, the classification society concerned, the other Member States, the Commission, the Centre administratif des affaires maritimes and the MOU Secretariat.  
The access refusal order will take effect as soon as the ship has been authorized to leave the port after the defects or deficiencies leading to the detention have been remedied.
2. In order to have the access refusal order lifted, the company must address a formal request to the competent authority of the Member State that imposed the access refusal order. This request must be accompanied by a certificate from the flag State administration showing that the ship fully conforms to the applicable provisions of the international conventions. The request for the lifting of the access refusal order must also be accompanied,

where appropriate, by a certificate from the classification society which has the ship in class showing that the ship conforms to the class standards stipulated by that society.

3. The access refusal order may only be lifted following a re-inspection of the ship at an agreed port by inspectors of the competent authority of the Member State that imposed the access refusal order and if evidence is provided to the satisfaction of this Member State that the vessel fully complies with the applicable requirements of the International Conventions.

If the agreed port is located within the EEA, the competent authority of the Member State of the port of destination may, with the agreement of the competent authority of the Member State that imposed the access refusal order, authorize the ship to proceed to the port of destination in question, for the sole purpose of verifying that the ship meets the conditions specified in paragraph 2.

The re-inspection shall consist of an expanded inspection that must cover at least the relevant items of Appendix 2.

All costs of this expanded inspection will be borne by the company.

4. If the results of the expanded inspection satisfy the Member State, the access refusal order will be lifted. The company must be informed thereof in writing.

The competent authority must also notify its decision in writing to the flag State administration, the classification society concerned, the other Member States, the Commission, the Centre administratif des affaires maritimes and the MOU Secretariat.

5. Information relating to ships that have been refused access to ports within the EEA must be made available in the Sirenac information system and published in conformity with the provisions of § 23.

Appendix 4 amended by regulations of 4 February 2005 No. 96 and 29 June 2007 No. 1006 (in force on 1 July 2007).