

**THE MERCHANT SHIPPING (PORT STATE CONTROL)
LAWS OF 2001 -2009¹**

LAW 47(I) OF 2001 AS AMENDED²
A LAW TO PROVIDE FOR THE EXERCISE OF CONTROL BY THE REPUBLIC OVER
FOREIGN SHIPS WHICH CALL AT CYPRUS PORTS

The House of Representatives enacts as follows:

PART I—INTRODUCTORY PROVISIONS

- Short title.*
47(I) of 2001
27(I) of 2004
60(I) of 2009. **1.** The Merchant Shipping (Port State Control) Law of 2001, the Merchant Shipping (Port State Control) (Amendment) Law of 2004, and the Merchant Shipping (Port State Control) (Amendment) Law of 2009 shall be cited together as the Merchant Shipping (Port State Control) Laws of 2001 and 2009.
- Interpretation.* **2.** —(1) In this Law, unless the context otherwise requires—
- "Competent Authority" means the Minister of Communications and Works and any other person, generally or specially, authorised by him for the purpose;
- 3(d) of 27 (I)/2004.* "Conventions" means the International Conventions, Protocols, and Codes prescribed from time to time by notification;
- "Cyprus ship" means ship registered in the Register of Cyprus Ships, pursuant to section 5 of the Merchant Shipping (Registration of Ships, Sales and Mortgages) Laws of 1963 to 1996, 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;
- 3(a) of 27 (I)/2004.* "Directive 95/21/EC" means the Community Act titled "Council Directive 95/21/EC of 19 June 1995 on port state control of shipping", (O.J. L157,

¹ Consolidation Note: Includes the latest amendments introduced by Law 60(I)/2009. All these Laws were published in the Greek language in the Official Gazette of the Republic of Cyprus., This is an "unofficial" consolidated translation into English prepared by the Department of Merchant Shipping and does not intend to replace any translation prepared by the Law Commissioner's Office.

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

² Consolidation Note : Law 47(I) of 2001 as amended by Law 27(I) of 2004 and Law 60(I)/2009 , transposes into the Cyprus legal order EU Directive 95/21/EC of 19 June 1995 concerning "the enforcement, in respect of shipping using Community ports and sailing in the waters under the jurisdiction of the Member States of international standards for ship safety, pollution prevention and shipboard living and working conditions (port State control) " (OJ L 157, 7.7.1995, p. 1), as last amended by Article 4 of Directive 2002/84/EC of the European Parliament and of the Council of 5 November 2002 amending the Directives on maritime safety and the prevention of pollution from ships (OJ L 324, 29.11.2002, p.53).

07/07/1995, p.1) as last amended by Article 4 of Directive 2002/84/EC of the European Parliament and of the Council of 5 November 2002 amending the Directives on maritime safety and the prevention of pollution from ships” (OJ L 324, 29.11.2002, p.53) as amended or replaced, from time to time;

"Director" means the Director of the Department of Merchant Shipping of the Ministry of Communications and Works;

3(a) of 27(I)/2004. "Equasis information system" means the European system of information which provides information on the quality and safety of ships and their operators;

3(a) of 27(I)/2004. "European Economic Area Agreement" means the European Economic Area Agreement signed at Oporto on 2nd May 1992 as amended from time to time;

3(a) of 27(I)/2004. "expanded inspection" means an inspection carried out in accordance with section 6;

3(a) of 27(I)/2004. "flag State" in respect of the ship, means the State, the flag of which, the ship is entitled to fly;

"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;

Official Gazette
Supplement
III(I):31.12.1997. "ISM Code" means the International Safety Management Code for the Safety of Ships and the Prevention of Pollution, which was issued by the International Maritime Organization (IMO) on the 4th of November 1993 and was rendered mandatory pursuant to Chapter IX of the International Convention for the Safety of Life at Sea of 1974/78, as amended;

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

3(a) of 27(I)/2004. "Member State" means a Member State of the European Union or any other State which is a contracting party to the European Economic Area Agreement;

"Minister" means the Minister of 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 subsection (3) of section 5, to an in-depth inspection covering the ship's construction, equipment, manning, living and working conditions and compliance with on-board operational procedures;

3(a) of 27(I)/2004. "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;

"notification" means a notification issued by the Director and published in the Official Gazette of the Republic³;

"offshore terminal installation" means a fixed or floating platform, operating on or over the continental shelf of the Republic;

"operator of the ship" means the shipowner or any other 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;

3(b) of 27(I)/2004. "passenger ship" [*This definition was repealed by section 3(b) of Amendment Law 27 (I)/2004*];

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

"Republic" means the Republic of Cyprus;

3(c) of 27(I)/2004. "ship" means any sea-going ship, other than a Cyprus ship, to which one or more of the Conventions apply;

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

3(a) of 27(I)/2004. "Sirenac information system" means the central system of information for the data concerning ship inspections, effected in the context of port state control, system which is located in Saint-Malo of France and was established according to the MOU;

"stoppage of an operation" 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
14 of 1982
57 of 1986
"surveyor" means a person, appointed by the Council of Ministers as a surveyor of ships, pursuant to paragraph (a) of subsection (2) of section 3 of the Merchant Shipping (Registration of Ships, Sales and Mortgages) Laws of 1963 to 1996.

³ See the Merchant Shipping (Port State Control) First Notification of 2005 (Gazette No. 3994, Supplement III (I), dated 20 05. 2005 ,P.I. 256/2005).

64 of 1987
28(I) of 1995
37 (I) of 1996.

3(a) of 27(I)/2004. “target factor” means the total of the current values of the target factor as defined by the MOU.

PART II – CONTROL IN PORTS OF THE REPUBLIC

Scope of application.

3. —(1) This Law shall apply to all ships and their crews which—

- (a) call at a port of the Republic or at an off-shore terminal installation; or
- (b) are anchored off such a port or such an installation:

Provided that 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 of ships of a gross tonnage below 500 units, the applicable requirements of the relevant Convention shall apply and shall, to the extent that the Convention does not apply, take such action 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 subsection, the surveyor shall follow the guidelines which are prescribed by a notification.

(3) When inspecting a ship flying a State’s flag, which is not a party to anyone 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.

(4) 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.

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

3A. — (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,

2 of 60(I)/ 2009.

- (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.

*Inspection
commitments.
4 of 27(I)/2004.*

4. —(1) The total number of inspections of the ships referred to in subsection (2) of this section and section 6 to be carried out annually by the Competent Authority, shall correspond to at least 25% of the average annual number of individual ships which entered its ports, calculated on the basis of the three most recent calendar years for which statistics are available.

4 of 27(I)/2004.

(2) (a) The Competent Authority shall, subject to the provisions of section 6A, ensure that an inspection in accordance with section 5 is carried out on any ship not subject to an expanded inspection with a target factor greater than 50 in the Sirenac information system, provided that a period of at least one month has elapsed since the last inspection carried out in a port in the MOU region.

(b) In selecting ships other than those referred to in paragraph (a) for inspection, the Competent Authority shall determine the order of priority as follows:

- (i) The first ships to be selected for inspection shall be those listed from time to time in a notification, irrespective of their target factor;
- (ii) the remaining ships, listed in another part of the same notification or in another notification, shall be selected in decreasing order, depending on the order of priority resulting from the value of their target factor ranges as referred to in the Sirenac information system.

4 of 27(I)/2004.

(3) The Competent Authority shall refrain from inspecting ships which have been inspected by the competent authority of another Member State within the previous six months, provided that -

- (a) the ship is not listed in a notification pursuant to subparagraphs (i) and (ii) of paragraph (b) of subsection (2);
- (b) no deficiencies have been reported, following a previous inspection;
- (c) no clear grounds exist for carrying out an inspection; and
- (d) the ship is not covered by paragraph (a) of subsection 2.

(4) The provisions of subsection (3) shall not apply in the case of the carrying out of any operational controls, specifically provided for in the Conventions.

Inspection of ships procedure.

5. —(1) The Competent Authority shall ensure that the surveyors shall as a minimum—

- (a) check the certificates and documents, which are prescribed from time to time by notification, to the extent applicable; and
- (b) satisfy themselves of the overall condition of the ship, including the condition of the engine room and the accommodation, as well as of the hygienic conditions.

(2) The surveyor may examine all relevant certificates and documents, other than those prescribed from time to time by notification, which are required to be carried on board in accordance with the Conventions.

(3) Whenever, following the inspection mentioned in subsections (1) and (2), there are clear grounds for reaching the conclusion that the condition of a ship or of its equipment or crew does not substantially meet the relevant requirements of a Convention, a more detailed inspection shall be carried out, including further checking of compliance with onboard operational requirements.

(4) In any case, the relevant procedures and guidelines for the control of ships prescribed, from time to time, by notification shall be observed.

*Mandatory expanded inspection of certain ships.
5 of 27(I)/2004.*

6. —(1) A ship in one of the categories prescribed from time to time by notification, is liable to an expanded inspection after a period of 12 months since the last expanded inspection carried out in a port of a State signatory of the MOU.

(2) If a ship referred to in subsection (1) is selected for inspection in accordance with paragraph (b), subsection (2) of section 4, an expanded inspection shall be carried out. However, an inspection in accordance with section 5 may be carried out in the period between two expanded inspections.

(3) (a) The operator or master of a ship to which subsection (1) applies, shall communicate to the Competent Authority all the information prescribed from time to time by notification, in case the ship visits a port of the Republic, after a period of 12 months since the last expanded inspection. This information shall be provided to the Competent Authority at least three days before—

- (i) the expected time of arrival in a port of the Republic; or
- (ii) leaving the previous port, if the voyage is expected to take fewer than three days.

(b) In case that neither the operator nor the master of the ship, complies with the obligation imposed by paragraph (a), the Competent Authority shall ensure that the ship shall be subject to an expanded inspection at the port of destination within the Republic.

(4) Subject to section 6A, the Competent Authority shall ensure that an expanded inspection is carried out on a ship which falls within the provisions of subsection (3) and which has a target factor of 7 or more at its first port visited after a period of 12 months since the last expanded inspection.

(5) Expanded inspection shall be carried out in accordance with procedures, prescribed by notification.

*Procedure
in case
certain
ships
cannot be
inspected.
6 of 27(I)/2004.*

6A. —(1) In cases where, for operational reasons, the Competent Authority is unable to carry out an inspection of a ship with a target factor of more than 50 as referred to in paragraph (a), subsection (2) of section 4 or a mandatory expanded inspection as referred to in subsection (4) of section 6, the Competent Authority shall, without delay, inform the Sirenac system that such inspection did not take place.

(2) Such cases referred to in subsection (1) shall be notified by the Competent Authority, at intervals of six months, to the Commission of the European Communities, together with the reasons for not inspecting the ships concerned.

(3) During any calendar year, the non-inspection cases referred to in subsection (1), shall not exceed 5% of the average annual number of individual ships eligible for the inspections—

- (a) which must be submitted to an inspection referred to in paragraph (a) of subsection (2) of section 4 or in subsection (4) of section 6, and
- (b) which call at the ports of the Republic,

and whose average annual number is calculated on the basis of the three most recent calendar years for which statistics are available.

(4) In case that—

- (a) a ship called at a port of a Member State, including the Republic, and the Competent Authority of such Member State has not ensured that the ship should be subject to an inspection or an expanded inspection, as provided for in Article 5(2)(a) and Article 7(4) respectively, of Directive 95/21/EC, and
- (b) such a ship sails from the port of such a Member State and its next port of call, is a port of the Republic,

the Competent Authority ensures that such a ship is subjected to an inspection or expanded inspection as provided for in paragraph (a) of subsection (2) of section 4 and subsection (4) of section 6 respectively, as appropriate, in accordance with the provisions of this Law.

*Access refusal
measures
concerning certain
ships.
6 of 27(I)/2004.*

6B. —(1) Subject to subsection (2), the Competent Authority shall ensure that ships in one of the categories prescribed from time to time by a notification, are refused access to the ports of the Republic and the master of such ships is served with a relevant notice, if these ships

(a) Either—

- (i) fly the flag of a State appearing in the black list as published in the annual report of the MOU, and
- (ii) have been detained more than twice in the course of the preceding 24 months in a port of a State signatory of the MOU,

(b) or—

- (i) fly 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
- (ii) 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 Competent Authority prohibits access in a port of the Republic as soon as the ship has been authorized to leave the port where it has been the subject of a second or third detention as appropriate.

(2) The Competent Authority may allow access to a port of the Republic, if any of the cases referred to subsection (8) of section 11, apply.

(3) For the purposes of subsection (1), the Competent Authority shall comply with the procedures laid down from time to time by a notification. Each shipowner or operator of a ship complies with his respecting obligations as referred to in the preceding provisions.

*Clear grounds.
7 of 27 (I)/2004.*

7. For the purposes of sections 4 and 5, “clear grounds” exist when the surveyor finds evidence which in his professional judgment warrants a more detailed inspection of the ship, its equipment or its crew. Examples of clear grounds are prescribed from time to time by a notification.

*Report of
inspection to the
master.
8 of 27(I)/2004.*

8. On completion of an inspection, a more detailed inspection or an expanded inspection, the surveyor shall draw up a report as laid down from time to time by a notification and provide a copy of the inspection report to the ship’s master.

*Rectification of
deficiencies and
prohibition of
sailing (detention).*

9. —(1) The Competent Authority shall be satisfied that any deficiencies confirmed or revealed by the inspection referred to in subsection (2) of section 4 and section 6 are or will be rectified in accordance with the Conventions.

9(a) of 27(I)/2004.

9(b) of 27(I)/2004. (2) If the deficiencies are clearly hazardous to safety, health or the environment, the surveyor shall confirm the contravention, make a report to that effect prohibit the sailing of the ship (detain) 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) or the stoppage of an operation shall not be lifted, 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.

9(c) of 27(I)/2004. (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 notification. In this respect, the ship shall be detained, if not equipped with a functioning voyage data recorder system, when its use is compulsory as laid down from time to time by a notification. If this deficiency cannot be readily rectified in the port of detention, the Competent Authority may allow the ship to proceed to the nearest appropriate port where it shall be readily rectified or require that the deficiency is rectified within a maximum period of 30 days. For these purposes, the procedures laid down in section 11 shall apply.

(4) In exceptional circumstances, where the overall condition of a ship is obviously substandard, the Competent Authority 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.

9(d) of 27(I)/2004. (5) In the event that the inspections referred to in subsection (2) of section 4 and section 6 give rise to detention, the Competent Authority shall immediately inform, in writing and including the report of inspection, the administration of the State whose flag the ship is entitled to fly 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. In addition, nominated surveyors or recognized organizations responsible for the issue of class certificates or certificates issued on behalf of the flag State in accordance with the Conventions shall also be notified by the Competent Authority, where relevant.

(6) 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.

*Procedure
in case of
absence of ISM
certificates.
10(a) of
27(I)/2004.*

10. —(1) If the inspection reveals that on board of a ship, to which the ISM Code applies, there is, on the date of inspection, no copy of the certificate of compliance or of the certificate of safety management which is issued in accordance with the ISM Code, the surveyor shall prohibit the sailing of the ship and deliver to the master a relevant notice.

(2) Notwithstanding the absence of documents referred to in subsection (1)—

*10(b) of
27(I)/2004.*

(a) if the inspection finds no other deficiencies warranting detention, the Competent Authority may lift the detention in order to avoid port congestion and shall immediately inform the competent authorities of other Member States for the lifting of such detention;

(b) if the inspection finds deficiencies within the meaning of subsection (2) of section 9, which cannot be rectified in the port of inspection, the provisions of section 11 apply.

(3)(a) Saving the provisions of paragraph (b), in case that a ship was authorized to leave a port of a Member State, including a port of the Republic, under circumstances similar to those referred to in subsection (2)(a), the Competent Authority shall refuse access to a port of the Republic issuing the master of the ship with a notice, until the shipowner or the operator of the ship has demonstrated to the Competent Authority that it has satisfied the competent authority which authorized the sailing of the ship from the above mentioned port of a Member State, that the ship has valid certificates issued in accordance with the ISM Code.

(b) In any of the cases referred to in subsection (8) of section 11, the Competent Authority may allow access of a ship to a port of the Republic.

*Follow up to
inspections
and prohibition
of sailing
(detention).*

11. —(1) Where deficiencies, as referred to in subsection (2) of section 9, cannot be rectified in the port of inspection, the Competent Authority may allow the ship concerned to sail to the nearest appropriate repair yard, as chosen by the master and the authorities concerned, 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) In the circumstances referred to in subsection (1), the Competent Authority shall notify the competent authority of the State where the repair yard is situated, as well as the parties mentioned in subsection (5) of section 9 and any other authority, as appropriate, of all the conditions for the voyage.

(3) The communication of such information to the parties referred to in subsection (2) shall be made in accordance with the format prescribed from time to time by a notification. In case the Competent Authority is informed by the competent authority of another Member State which under Article 11(1) of Directive 95/21/EC allowed a ship to sail to a repair yard situated in the Republic, the Competent Authority communicates the measures taken by it to the competent authority of the other Member State.

*11(a) of
27(I)/2004.*

(4) Ships, referred to in subsection (1) which —

(a) sail without complying with the conditions laid down by the competent authority in the port of inspection, or

(b) refuse to comply with the applicable requirements of the Conventions,

*11(b) of
27(I)/2004.*

by not calling at the indicated repair yard,

shall be refused access to any port of the Republic by the Competent Authority by serving the master of the ship with a notice, until the shipowner or the operator of the ship provides evidence to the Competent Authority that the competent authority of the port in which the ship was found defective was satisfied that, the ship fully complies with all applicable requirements of the Conventions.

(5) In the circumstances referred to in paragraph (a) of subsection (4), if the port of inspection is in the Republic, the Competent Authority shall immediately alert the competent authorities of all Member States.

(6) In the circumstances referred to in paragraph (b) of subsection (4), if the repair yard is situated within the Republic, the Competent Authority shall immediately alert the competent authorities of all Member States.

(7) Before denying a ship flying a foreign flag access to a port of the Republic, the Competent Authority may request consultations with the authorities of the flag State of the ship concerned.

(8) Notwithstanding the provisions of subsection (4), 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 shipowner, operator of the ship or the master, will take adequate measures to ensure safe entry.

*Professional
profile of
surveyors.*

12. —(1) The inspections shall be carried out only by surveyors who fulfil the qualification 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) Surveyors, carrying out port State control in ports of the Republic, and the persons assisting them, shall have no commercial interest either in the port of inspection or in the ships inspected, nor shall they be employed by or undertake work on behalf of non-governmental organizations which issue the statutory and classification certificates in accordance with the relevant legislation or which carry out the surveys necessary for the issue of such certificates to ships.

*Official Gazette
Supplement
III(I):6.7.2000.*

(4) Whilst carrying out their duties, surveyors shall carry a special identity card issued by the Minister in accordance with the Merchant Shipping (Identity Cards of the Surveyors of Ships and Inspectors of Ships) Regulations of 2000.

Reports from pilots and port authorities and relevant cooperation.

13. —(1) Pilots of the port authorities of the Republic, who are engaged in berthing or unberthing ships or engaged on ships bound for a port of the Republic, shall immediately inform the Competent Authority whenever they learn, in the course of their normal duties, that there are deficiencies which may prejudice the safe navigation of the ship, or which may pose a threat of harm to the marine environment.

(2) If the port authorities of the Republic, learn that a ship within their port has deficiencies which may prejudice the safety of the ship or poses an unreasonable threat of harm to the marine environment, port authorities shall immediately inform the Competent Authority.

Publication of Information.

14. —(1) The Competent Authority shall take all necessary measures to ensure that the information, prescribed from time to time by a notification, concerning ships which were prohibited from sailing from, or entering, a port of the Republic, is published the soonest possible and definitely in the month following the month in which the prohibition of sailing or entry was decided.

12(a) of 27(I)/2004.

(2) The Competent Authority ensures that—

46(I) of 2001.

(a) the information prescribed from time to time by a notification and the information on changes, suspensions and withdrawals of class referred to in section 14(5) of the Merchant Shipping (Recognition and Authorisation of Organizations) Law of 2001, shall be available in the Sirenac system, and

(b) the information mentioned above shall be made public through the Equasis information system, as soon as possible after the inspection has been completed or after the detention has been lifted.

12(b) of 27(I)/2004.

(3) The provisions of this section do not affect legislation on liability in force at the time being in the Republic.

PART III - MISCELLANEOUS PROVISIONS

*Notice to the master as to the right to object and to file a hierarchical recourse.
13 of 27(I)/ 2004.*

14A. —(1) In case a ship is prohibited from sailing, pursuant to this Law, the surveyor who takes the relevant decision, shall serve the master of the ship, with a notice informing him, of the rights of filing an objection and a recourse, provided in sections 15 and 16, respectively,

(2) In case the access of a ship to a port is prohibited, pursuant to this Law, the person who takes the decision, shall inform the master of the ship, in the relevant notice with which he is served, of his right to file a hierarchical recourse under section 16.

Right to object.

15. —(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 shipowner, or 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 subsection (2) of section 9.

(2) Any objection filed in accordance with subsection (1) 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.

14 of 27(I)/2004.

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, (in case the latter is not the one filing the objection).

*Recourse before
the Minister.
15(a)(b) of
27(I)/2004.*

16. —(1) The shipowner or the operator of the ship or his representative in the Republic, may challenge 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;
- (b) a decision of the Competent Authority for the prohibition of entry into a port of the Republic;
- (c) a decision of the Director, issued under section 15.

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

15(c) of 27(I)/2004.

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 (in

case the latter is not the one filing the recourse).

*Liability for loss
and damage.*

17. —(1) The Competent Authority shall, while carrying out any control (inspection) pursuant to the provisions of this Law, make every possible effort, so as to avoid any unjustified prohibition of sailing or delay of a ship.

(2) In the event of unjustified prohibition of sailing or delay of a ship, the shipowner or the operator of the ship shall be entitled to compensation for any loss or damage suffered as a result thereof:

Provided that where an allegation of unjustified prohibition of sailing or delay is made, the burden of proof lies on the shipowner or the operator of the ship.

*Payment of
inspection costs.*

18. —(1) When, in the course of the inspections referred to in sections 5 and 6, deficiencies relating to the requirements of a Convention are either confirmed or revealed, and such deficiencies warrant the prohibition of sailing of a ship, all costs relating to the inspection in any normal accounting period, shall be covered by the shipowner or the operator of such ship or his representative in the Republic.

(2) All costs relating to inspections carried out by the Competent Authority pursuant to subsection (4) of section 11 shall be charged to the shipowner or the operator of the ship.

16 of 27(I)/ 2004.

(2A) In the case of a prohibition of sailing of a ship for deficiencies or lack of valid certificates as laid down in section 9 and prescribed from time to time by a notification, all costs relating to the detention in port shall be borne by the shipowner or operator of the ship.

(3) A prohibition of sailing shall not be lifted until the full amount of costs relating to the inspections referred to in subsections (1) and (2) is paid or sufficient guarantee for covering the costs is given, which is secured by the deposit of a bank guarantee of an equal amount by a recognized bank and under such terms to the satisfaction of the Competent Authority:

Provided that in the case of ships which call regularly at ports of the Republic, such ships may be allowed, upon approval of the Minister, to sail, for one voyage only, without having first paid all such amount or having deposited a guarantee as above mentioned, if prevailing reasons relating to transport or communications or other special reasons justify this and it is on the facts impossible to produce a bank guarantee in time.

3 of 60(I)/2009

(4) [*This subsection (4) was repealed by section 3 of Amendment Law 60 (I)/2009*];

Cooperation.

19. —(1) The Competent Authority and the port authorities of the Republic shall be jointly liable to ensure that the Competent Authority obtains all the necessary information about the ships which sail to the ports of the Republic.

17 of 27(I)/2004.

(2)(a) The Competent Authority shall handle matters relating to the exchange of information and cooperation with the relevant authorities of other Member States and shall be the operational link with the Commission of the European Communities and the Sirenac information system.

(b) For the purposes of carrying out the inspections referred to in subsection (2) of section 4 and section 6, the surveyors shall consult the public and private databases relating to ship inspection accessible through the Equasis information system.

(c) The information referred to in paragraph (a) is the information under section 14 as well as any other information prescribed from time to time by a notification.

*Supply of
information
to the
Commission
of the European
Communities .
18 of 27(I)/ 2004.*

20. The Competent Authority provides the Commission of the European Communities with the information prescribed from time to time by a notification at the intervals stated therein.

*Criminal offence.
19 of 27(I)/ 2004.*

21. Each shipowner, operator or master of a ship, commits a criminal offence, in case such person—

- (a) Attempts the sailing of a ship in contravention of a prohibition of sailing imposed on such ship pursuant to this Law; or
- (b) attempts access of the ship to a port of the Republic, in contravention of a prohibition of access imposed on such ship pursuant to this Law;
- (c) fails to comply with an obligation imposed by subsection (3)(a) of section 6;
- (d) fails to take the necessary measures for the ship to proceed to the nearest port as allowed by the Competent Authority pursuant to subsection (3) of section 9 or fails to take the necessary measures for rectifying a deficiency as requested by the Competent Authority in accordance with the same subsection;
- (e) fails to take the necessary measures to sail the ship to a repair yard, pursuant to subsection (1) of section 11, and

if found guilty, such person shall be liable to imprisonment for a term not exceeding two years or to a fine not exceeding five thousand pounds or to both such sentences.

*Administrative
fine.
4 of 60(I)/ 2009.*

21A. — (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 (3) , paragraph (a) of section 6, the Competent Authority has a power to impose on such person an administrative fine not exceeding eight thousand five hundred euro (8.500 €) , depending on the seriousness of the contravention and irrespective of whether or not there is a concurrent case of a criminal liability by virtue of this Law, or any other law or regulations.

(2) The Competent Authority before imposing the administrative fine, notifies the person affected of its intention to impose the administrative fine, informing him of the reasons for which it intends to act as such and providing him with the right to submit representations within a peremptory time limit of 15 days, from the date of such notification.

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

- (a) which confirms the contravention; and
- (b) by which the person affected is informed—

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

(aa) before the Minister in accordance with the provisions of section 21 B , and

(bb) 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 21B of this Law and Article 146 of the Constitution, respectively; and

(c) which is executed upon communication.

(4) The Minister has a power to prescribe through his instructions the indicative criteria for calculating the level of the administrative fine imposed under subsection (1), without restricting the discretion of the Competent Authority, to decide freely on the level of the administrative fine imposed on the basis of the real facts of the case.

*Hierarchical
recourse
before the Minister
regarding an
administrative fine.
4 of 60(I)/ 2009.*

21 B. — (1) (a) The operator of a ship, his representative in the Republic and the master of such ship, each have the right to challenge by a hierarchical recourse, before the Minister a decision of the Competent Authority imposing an administrative fine by virtue of section 21A 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.

(2) Subsections (2),(3) and (4) of section 16 are applied *mutatis mutandis* , for the purposes of this section.

(3) 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
(survey) expenses
and of
administrative fine.
5 of 60(I)/ 2009.*

22 . — (1) In the event of a failure or neglect of—

(a) a person to pay to the Competent Authority , the survey expenses owed by himself in accordance with section 18;

(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 constitute 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 18 and which relates to the said ship;

(b) an administrative fine imposed on the operator of the ship, by virtue 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 21B 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.

Regulations.

23. —(1) The Council of Ministers has power to make Regulations in order to regulate any matter which under this Law needs or is capable of receiving regulation.

20 of 27(I) of 2004.

(2) Regulations made under this Law shall be laid before the House of Representatives, which may approve or reject them within sixty days of their laying. If the House of Representatives approves the Regulations or the sixty day period lapses without any action being taken, the Regulations shall be published in the Official Gazette of the Republic as such or as so amended and unless provided otherwise therein, shall come into force as from such publication.

*Entry into
force of
this Law.*

24. This Law shall come into force on a date to be set by the Council of Ministers by a notification published in the Official Gazette of the Republic⁴.

(2) The Council of Ministers may set different dates for the entry into force of various and different provisions of this Law.

**Consolidated DMS version
July 2009**

⁴ Consolidation Note: *The Merchant Shipping (Port State Control) Laws of 2001-2009 entered into force on 1st May 2004 (date of accession of the Republic of Cyprus to the EU), by virtue of a Notification of the Council of Ministers of the Republic (see Notifications P.I. 249/2004 and P.I. 250/2004, published in the Official Gazette No. 3840, Supplement III (I), dated 23.04.2004).*