

L.N. 3 of 2008

**MALTA MARITIME AUTHORITY ACT
(CAP. 352)**

Ports Security (Amendment) Regulations, 2008

IN exercise of the powers conferred by article 28 of the Malta Maritime Authority Act, the Minister for Competitiveness and Communications, in consultation with the Malta Maritime Authority, has made the following regulations:-

1. (1) The title of these regulations is the Ports Security (Amendment) Regulations, 2008, and they shall be read and construed as one with the Ports Security Regulations, 2004 hereinafter referred to as “the principal regulations”.

Citation and
commencement.
L.N. 484 of 2004.

(2) These regulations shall be deemed to have come into force on the 15th June, 2007.

2. Sub-regulation (1) of regulation 2 of the principal regulations shall be substituted by the following:

Amends regulation
2 of the principal
regulations.

“(1) The purpose of these regulations is:

(a) to enable Malta to enhance ship and port security by meeting its obligations arising from the International Convention for the Safety of Life at Sea (SOLAS), and

(b) to bring into effect the provisions of the Directive 2005/65/EC of the European Parliament and of the Council of the 26 October 2005 enhancing port security”.

3. Immediately at the end of paragraph (b), the following paragraph shall be added to regulation 3(1) of the principal regulations:

Amends regulation
3 of the principal
regulations.

“(c) ports in which one or more port facility, specified in paragraph (b), is or are situated, but shall not apply to military installations located in these ports.”

4. Regulation 4 of the principal regulations shall be amended as follows:

Amends regulation
4 of the principal
regulations.

(a) immediately before the definition “focal point for maritime security” there shall be added the following definition:

“focal point for port security” means the body designated as the focal point for maritime security;”;

(b) immediately after the definition “port facility security plan” there shall be added the following definition;

“port security authority” means the authority appointed under regulation 5;”;

(c) the following proviso shall be added to the definition “recognised security organisation”:

“Provided that recognised security organisations may be appointed by the designated authority to carry out port security assessments and port security plans if they fulfil the conditions established in the Fourth Schedule;”.

Substitutes regulation 5 of the principal regulations.

5. Regulation 5 of the principal regulations there shall be substituted the following:

“Appointment of the designated authority.

The designated authority responsible for ensuring the implementation of the provisions of these regulations shall be the Malta Maritime Authority.”.

Amends regulation 6 of the principal regulations.

6. Regulation 6 of the principal regulations shall be amended as follows:

(a) paragraphs (a) to (i) shall be re-numbered as paragraphs (c) to (k) respectively; and

(b) immediately before paragraph (c) as renumbered, the new paragraphs (a) and (b) shall be inserted as follows:

“(a) establish procedures to ensure that:

(i) appropriate measures are taken to protect information which is subject to the requirement of confidentiality to which it has access or which is communicated to it by a Member State; and

(ii) any personnel carrying out security inspections, or handling confidential information related to these regulations has the appropriate level of security vetting by the Member States of the nationality of the personnel concerned;

(b) ensure that with respect to ports to which these regulations apply that port security plans, based on the findings of port security assessment, are prepared, approved and implemented;”.

7. For paragraph (a) of sub-regulation (1) of regulation 16 of the principal regulations, there shall be substituted the following: Amends regulation 16 of the principal regulations.

“(a) determine the security level and security measures to be implemented in a port, or part of a port, and at every port facility;”.

8. Regulations 26 to 53 of the principal regulations shall be renumbered as regulations 30 to 57 thereof respectively. Renumbering of regulations 26 to 53 of the principal regulations.

9. Immediately after regulation 25 of the principal regulations there shall be inserted the following new regulations:- Adds new regulations 26 to 29 to the principal regulations.

“Ports
security
assessment.

26. (1) The designated authority shall ensure that port security assessments are carried out for the ports covered by these regulations. These assessments shall take due account of the specificities of different sections of a port and, where deemed applicable, of its adjacent areas if these have an impact on security in the port, and shall take into account the assessments for port facilities within their boundaries as carried out pursuant to these regulations and Regulation (EC) No 725/2004.

(2) Each port security assessment shall be carried out taking into account as a minimum the detailed requirements laid down in the First Schedule.

(3) Port security assessments may be carried out by a recognised security organisation.

(4) Port security assessments shall be:

(a) approved by the designated authority after consultation with the Maritime Security Committee;

(b) reviewed as appropriate, but at least once every five years.

Ports security
Plan.

27. (1) Subject to the findings of port security assessments, the designated authority shall ensure that port

security plans are developed, maintained and updated. Port security plans shall adequately address the specificities of different sections of a port and shall integrate the security plans for port facilities within their boundaries established pursuant to Regulation (EC) No 725/2004.

(2) Port security plans shall identify, for each of the different security levels:

- (a) the procedures to be followed;
- (b) the measures to be put in place;
- (c) the actions to be undertaken;

(3) Each port security plan shall take into account as a minimum the detailed requirements specified in the Second Schedule. Where, and to the extent appropriate, the port security plan shall in particular include security measures to be applied to passengers and vehicles set for embarkation on seagoing vessels which carry passengers and vehicles. In the case of international maritime transport services, the designated authority shall cooperate with other Member States in the security assessment.

(4) Port security plans may be developed by a recognised security organisation.

(5) The designated authority shall:

- (a) approve the port security plans after consultation with the Maritime Security Committee;
- (b) implement the port security plans;
- (c) review the port security plans as appropriate, but at least every five years.

(6) The designated authority shall report to the focal point for port security on the implementation of the port security plan,

(7) Adequate exercises shall be performed taking into account the basic security training exercise requirements listed in the Third Schedule.

Ports security
officer.

28. (1) A port security officer shall be appointed by the designated authority for each port. Each port shall, where practicable, have a different port security officer, but may, if appropriate, share a security officer.

(2) Port security officers shall fulfil the role of point of contact for port security related issues.

(3) Where the port security officer is not the same as the port facility security officer under these regulations, close co-operation between them shall be ensured.

Port security
committee.

29. (1) The designated authority is to ensure that a Port Security Committee is established for each port to which these regulations apply.

(2) The Port Security Committees shall include representatives of public entities, port users and service providers.

(3) The Port Security Committees shall establish and regulate their own procedures.’’.

10. The following Schedules shall be added to the principal regulations:-

Adds new schedules to the principal regulations.

“First Schedule

Port Security Assessment

1. The port security assessment is the basis for the port security plan and its implementation. The port security assessment will cover at least:

1.1. identification and evaluation of important assets and infrastructure which it is important to protect;

1.2. identification of possible threats to the assets and infrastructure and the likelihood of their occurrence, in order to establish and prioritise security measures;

1.3. identification, selection and prioritisation of counter-measures and procedural changes and their level of effectiveness in reducing vulnerability; and

1.4. identification of weaknesses, including human factors in the infrastructure, policies and procedures.

2. For this purpose the assessment will at least:

2.1. identify all areas which are relevant to port security, thus also defining the port boundaries. This includes port facilities which are already covered by Regulation (EC) No 725/2004 and whose risk assessment will serve as a basis;

2.2. identify security issues deriving from the interface between port facility and other port security measures;

2.3. identify which port personnel will be subject to background checks and/or security vetting because of their involvement in high-risk areas;

2.4. subdivide, if useful, the port according to the likelihood of security incidents. Areas will be judged not only upon their direct profile as a potential target, but also upon their potential role of passage when neighbouring areas are targeted;

2.5. identify risk variations, e.g. those based on seasonality;

2.6. identify the specific characteristics of each sub-area, such as location, accesses, power supply, communication system, ownership and users and other elements considered security-relevant;

2.7. identify potential threat scenarios for the port. The entire port or specific parts of its infrastructure, cargo, baggage, people or transport equipment within the port can be a direct target of an identified threat;

2.8. identify the specific consequences of a threat scenario. Consequences can impact on one or more sub-areas. Both direct and indirect consequences will be identified. Special attention will be given to the risk of human casualties;

2.9. identify the possibility of cluster effects of security incidents;

2.10. identify the vulnerabilities of each sub-area;

2.11. identify all organisational aspects relevant to overall port security, including the division of all security-related authorities, existing rules and procedures;

2.12. identify vulnerabilities of the overarching port security related to organisational, legislative and procedural aspects;

2.13. identify measures, procedures and actions aimed at reducing critical vulnerabilities. Specific attention will be paid to the need for, and the means of, access control or restrictions to the entire port or to specific parts of a port, including identification of passengers, port employees or other workers, visitors and ship crews, area or activity monitoring requirements, cargo and luggage control. Measures, procedures and actions will be consistent with the perceived risk, which may vary between port areas;

2.14. identify how measures, procedures and actions will be reinforced in the event of an increase of security level;

2.15. identify specific requirements for dealing with established security concerns, such as “suspect” cargo, luggage, bunker, provisions or persons, unknown parcels, known dangers (e.g. bomb). These requirements will analyse desirability conditions for either clearing the risk where it is encountered or after moving it to a secure area;

2.16. identify measures, procedures and actions aimed at limiting and mitigating consequences;

2.17. identify task divisions allowing for the appropriate and correct implementation of the measures, procedures and actions identified;

2.18. pay specific attention, where appropriate, to the relationship with other security plans (e.g. port facility security plans) and other existing security measures. Attention will also be paid to the relationship with other response plans (e.g. oil spill response plan, port contingency plan, medical intervention plan, nuclear disaster plan, etc.);

2.19. identify communication requirements for implementation of the measures and procedures;

2.20. pay specific attention to measures to protect security-sensitive information from disclosure;

2.21. identify the need-to-know requirements of all those directly involved as well as, where appropriate, the general public.

Second Schedule

Port Security Plan

1. The port security plan sets out the port's security arrangements. It will be based on the findings of the port security assessment. It will clearly set out detailed measures. It will contain a control mechanism allowing, where necessary, for appropriate corrective measures to be taken.

2. The port security plan will be based on the following general aspects:

2.1. defining all areas relevant to port security. Depending on the port security assessment, measures, procedures and actions may vary from sub-area to sub-area. Indeed, some sub areas may require stronger preventive measures than others. Special attention will be paid to the interfaces between sub-areas, as identified in the port security assessment;

2.2. ensuring coordination between security measures for areas with different security characteristics;

2.3. providing, where necessary, for varying measures both with regard to different parts of the port, changing security levels, and specific intelligence;

2.4. identifying an organisational structure supporting the enhancement of port security.

3. Based on those general aspects, the port security plan will attribute tasks and specify work plans in the following fields:

3.1. access requirements. For some areas, requirements will only enter into force when security levels exceed minimal thresholds. All requirements and thresholds will be comprehensively included in the port security plan;

3.2. ID, luggage and cargo control requirements. Requirements may or may not apply to sub areas; requirements may or may not apply in full to different sub-areas. Persons entering or within a sub-area may be liable to control. The port security plan will appropriately respond to the findings of the port security assessment, which is the tool by which the security requirements of each sub-area and at each security level will be identified. When dedicated identification cards are developed for port security purposes, clear procedures will be established for the issue, the use-control and the

return of such documents. Such procedures will take into account the specificities of certain groups of port users allowing for dedicated measures in order to limit the negative impact of access control requirements. Categories will at least include seafarers, authority officials, people regularly working in or visiting the port, residents living in the port and people occasionally working in or visiting the port;

3.3. liaison with cargo control, baggage and passenger control authorities. Where necessary, the plan is to provide for the linking up of the information and clearance systems of these authorities, including possible pre-arrival clearance systems;

3.4. procedures and measures for dealing with suspect cargo, luggage, bunker, provisions or persons, including identification of a secure area; as well as for other security concerns and breaches of port security;

3.5. monitoring requirements for sub-areas or activities within sub-areas. Both the need for technical solutions and the solutions themselves will be derived from the port security assessment;

3.6. signposting. Areas with access and/or control requirements will be properly signposted. Control and access requirements will appropriately take into account all relevant existing law and practices. Monitoring of activities will be appropriately indicated if national legislation so requires;

3.7. communication and security clearance. All relevant security information will be properly communicated according to security clearance standards included in the plan. In view of the sensitivity of some information, communication will be based on a need-to-know basis, but it will include where necessary procedures for communications addressed to the general public. Security clearance standards will form part of the plan and are aimed at protecting security sensitive information against unauthorised disclosure;

3.8. reporting of security incidents. With a view to ensuring a rapid response, the port security plan will set out clear reporting requirements to the port security officer of all security incidents and/or to the port security authority;

3.9. integration with other preventive plans or activities. The plan will specifically deal with integration with other preventive and control activities in force in the port;

3.10. integration with other response plans and/or inclusion of specific response measures, procedures and actions. The plan will detail interaction and coordination with other response and emergency plans. Where necessary conflicts and shortcomings will be resolved;

3.11. training and exercise requirements;

3.12. operational port security organisation and working procedures. The port security plan will detail the port security organisation, its task division and working procedures. It will also detail the coordination with port facility and ship security officers, where appropriate. It will delineate the tasks of the port security committee, if this exists;

3.13. procedures for adapting and updating the port security plan.

Third Schedule

Basic Security Training Exercise Requirements

Various types of training exercises which may involve participation of port facility security officers, in conjunction with the relevant authorities of Member States, company security officers, or ship security officers, if available, will be carried out at least once during each calendar year with no more than 18 months elapsing between the training exercises. Requests for the participation of company security officers or ships security officers in joint training exercises will be made bearing in mind the security and work implications for the ship. These training exercises will test communication, coordination, resource availability and response. These training exercises may be:

- (1) full scale or live;
- (2) tabletop simulation or seminar; or
- (3) combined with other exercises held such as emergency response or other port State authority exercises.

Fourth Schedule

Conditions to be fulfilled by a recognised security organisation

- 1. A recognised security organisation will be able to demonstrate:
 - 1.1. expertise in relevant aspects of port security;
 - 1.2. an appropriate knowledge of port operations, including knowledge of port design and construction;
 - 1.3. an appropriate knowledge of other security relevant operations potentially affecting port security;
 - 1.4. the capability to assess the likely port security risks;
 - 1.5. the ability to maintain and improve the port security expertise of its personnel;

- 1.6. the ability to monitor the continuing trustworthiness of its personnel;
 - 1.7. the ability to maintain appropriate measures to avoid unauthorised disclosure of, or access to, security-sensitive material;
 - 1.8. knowledge of relevant national and international legislation and security requirements;
 - 1.9. knowledge of current security threats and patterns;
 - 1.10. the ability to recognise and detect weapons, dangerous substances and devices;
 - 1.11. the ability to recognise, on a non-discriminatory basis, characteristics and behavioural patterns of persons who are likely to threaten port security;
 - 1.12. knowledge of techniques used to circumvent security measures;
 - 1.13. knowledge of security and surveillance equipment and systems and their operational limitations.
2. A recognised security organisation which has made a port security assessment or review of such an assessment for a port is not allowed to establish or review the port security plan for the same port.”.

