

Suppliment tal-Gazzetta tal-Gvern ta' Malta Nru. 18,711, 22 ta' Frar, 2011

Taqsima B

L.N. 64 of 2011

**MERCHANT SHIPPING ACT
(CAP. 234)**

Merchant Shipping (Port State Control) Regulations, 2011

IN exercise of the powers conferred by articles 154 and 374 of the Merchant Shipping Act, the Minister for Infrastructure, Transport and Communications has made the following regulations-

1. (1) The title of these regulations is the Merchant Shipping (Port State Control) Regulations, 2011.

Citation,
commencement and
scope.

(2) These regulations shall be deemed to have come into force on the 1st January, 2011.

(3) These regulations adopt the measures contained in Directive 2009/16/EC of the European Parliament and of the Council of 23 April 2009.

2. (1) In these regulations, unless the context otherwise requires-

Interpretation.

“the Act” means the Merchant Shipping Act;

Cap. 234.

“the competent authority” in relation to Malta means the Authority for Transport in Malta established under the Authority for Transport in Malta Act and, in relation to any other State means the national maritime administration maintained by that State for the inspection of ships;

Cap. 499.

“the Community” means the European Community;

“the Directive” means Directive 2009/16/EC of the European Parliament and of the Council of 23 April 2009;

“flag State” means the State whose flag the ship is entitled to fly;

“inspector” means a person duly authorized by the competent authority to carry out port State control inspections, and responsible to that authority;

“Member State” means a member State of the European Union;

“ship” means any sea going vessel to which one or more of the Conventions apply, flying a flag other than that of Malta.

(2) Unless otherwise defined in these regulations or unless the context otherwise requires, words and expressions used in these regulations shall have the same meaning assigned to them in the Directive.

Application.

3. (1) These regulations shall apply to any ship and her crew calling at a port in Malta or anchored off such a port to engage in a ship/port interface:

Provided that nothing in these regulations shall affect the rights of intervention available to any authority under any of the relevant international Conventions or under any other convention.

(2) These regulations shall not apply to-

- (a) fishing vessels,
- (b) warships,
- (c) naval auxiliaries,
- (d) wooden ships of a primitive build,
- (e) government ships used for non commercial purposes,
- (f) pleasure yachts not engaged in trade, or
- (g) ships registered in Malta.

(3) In case of ships below 500 gross tonnage, the inspector shall apply those requirements of a relevant Convention which are applicable and shall, to the extent that a Convention does not apply and without prejudice to any other powers under

these regulations, take such action as may be necessary to ensure that the ships concerned are not clearly hazardous to safety, health or the environment. In the application of this subregulation the inspector shall be guided by Annex I to the Paris Memorandum Of Understanding.

(4) When inspecting ships flying the flag of a State which is not a party to a Convention, the treatment given to such ship and her crew shall be no more favourable than that given to a ship flying the flag of a State which is a party to that Convention or to the crew of such a ship.

4. (1) The competent authority shall ensure that ships are selected for inspection on the basis of their risk profile as described in Annex I Part I to the Directive, and when overriding or unexpected factors arise in accordance with Annex I Part II 2A and 2B to the Directive.

Inspection System
and annual inspection
commitment.

(2) In selecting ships for inspection, the competent authority:

(a) shall inspect all ships which are due for a mandatory inspection, referred to as “Priority I” ships, in accordance with the selection scheme described in Annex I, Part II 3A to the Directive;

(b) may inspect ships which are eligible for inspection, referred to as “Priority II” ships in accordance with Annex I Part II 3B to the Directive:

Provided that the total annual number of inspections of Priority I and Priority II ships, correspond at least to the share of the total number of inspections to be carried out annually within the Paris Memorandum Of Understanding region, calculated on the number of individual ships calling at Maltese ports in relation to the sum of the number of individual ships calling at ports of each State within the Paris Memorandum Of Understanding region:

Provided further that –

(a) when the total number of calls of Priority I ships exceeds the inspection share referred to above, the competent authority shall carry out a number of inspections on Priority I ships, corresponding to at least that inspection share and no

more than 30% of the total number of Priority I ships calling at ports and anchorages are not missed, in order to comply with such commitment; and

(b) when the total number of Priority I and Priority II ships, is less than the inspection share referred to above, the competent authority shall carry out a number of inspections on Priority I ships, corresponding to at least that inspection share and no more than 30% of the total number of Priority I ships calling at ports and anchorages.

(3) In the case of failure to carry out the inspections required under sub-regulation (2) hereof, the inspection commitment is still considered to be fulfilled in accordance with the provision unless such missed inspections exceed:

(a) 5% of the total number of Priority I ships with a high risk profile calling at ports and anchorages, or

(b) 10% of the total number of Priority I ships, other than those with a high risk profile calling at ports and anchorages:

Provided that notwithstanding the percentage in paragraphs (a) and (b), the competent authority shall prioritise the inspection of ships which, according to the information provided by the inspection database, call at ports within the Community infrequently, and for Priority I ships calling at anchorages, the competent authority shall prioritise inspection of ships with a high risk profile which, according to the information provided by the inspection database, call at ports within the Community infrequently.

(4) The competent authority may postpone the inspection of Priority I ships if the inspection may be carried out in another port of call within the Paris Memorandum Of Understanding region within 15 days:

Provided that the State in which such port of call is located has agreed in advance to perform the inspection and this is recorded in the inspection database.

(5) Where an inspection is not performed on Priority I ships for operational reasons, it shall not be counted as a missed inspection:

Provided that the reason for missing the inspection is recorded in the inspection database, and the following exceptional circumstances occur:

(a) in the judgment of the competent authority the conduct of the inspection would create a risk to the safety of inspectors, the ship, its crew or to the port or to the marine environment; or

(b) the ship call takes place only during night time; in such case necessary measures shall be taken to ensure that the ships which call regularly during night time are inspected as appropriate.

(6) If an inspection is not performed on a ship at anchorage, it shall not be counted as a missed inspection if:

(a) the ship is inspected in another port or anchorage within the Community or the Paris Memorandum Of Understanding region in accordance with Annex I to the Directive within 15 days; or

(b) the ship call takes place only during night time or its duration is too short for the inspection to be carried out satisfactorily, and the reason for missing the inspection is recorded in the inspection database; or

(c) in the judgment of the competent authority the conduct of the inspection would create a risk to the safety of inspectors, the ship, its crew or port, or to the marine environment, and the reason for missing the inspection is recorded in the inspection database.

5. (1) The operator, agent or master of a ship which, in accordance with regulation 9 is eligible for an expanded inspection and bound for a port or anchorage in Malta, shall notify its arrival in accordance with the provisions laid down in Annex III to the Directive.

Notification of arrival of ships.

(2) On receipt of the notification referred to in sub-regulation (1) hereof and in Article 4 of Directive 2002/59/EC of the European Parliament and of the Council of 27 June 2002 establishing a Community vessel traffic monitoring and information system, the port authority or body or the authority or body designated for that purpose shall forward such information to the competent authority.

Ship risk profile.

6. (1) The competent authority shall attribute a ship risk profile to all ships calling at a port or anchorage in the inspection database, determining their respective priority for inspection, the intervals between the inspections and the scope of inspections.

(2) The risk profile of a ship shall be determined by a combination of generic and historical risk parameters as follows:

(a) generic parameters shall be based on the type, age, flag, recognised organisations involved and company performance in accordance with Annex I Part I.1 and Annex II to the Directive.

(b) historical parameters shall be based on the number of deficiencies and detentions during a given period in accordance with Annex I, Part I.2 and Annex II to the Directive.

Frequency of inspections.

7. Ships calling at ports or anchorages within the Community shall be subject to periodic inspections or to additional inspections as follows:

(a) ships shall be subject to periodic inspections at predetermined intervals depending on their risk profile in accordance with Annex I Part I to the Directive. The interval between periodic inspections of ships shall increase as the risk decreases; for high risk ships, this interval shall not exceed six months; and

(b) ships shall be subject to additional inspections regardless of the period since their last periodic inspection as follows:

(i) the competent authority shall ensure that ships to which overriding factors listed in Annex I Part II 2A to the Directive, apply are inspected,

(ii) ships to which unexpected factors listed in Annex I Part II 2B to the Directive, apply may be inspected; the decision to undertake such an additional inspection is left to the professional judgment of the competent authority.

Initial and more detailed inspections.

8. The competent authority shall ensure that ships which are selected for inspection in accordance with sub-regulations (1)

and (2) of regulation 4 are subject to an initial inspection or a more detailed inspection as follows:

(a) on each initial inspection of a ship, the competent authority shall ensure that the inspector, as a minimum:

(i) checks the certificates and documents listed in Annex IV to the Directive required to be kept on board in accordance with Community maritime legislation and Conventions relating to safety and security;

(ii) verifies, where appropriate, whether outstanding deficiencies found during the previous inspection carried out by a Member State or by a State signatory to the Paris Memorandum Of Understanding have been rectified;

(iii) satisfies himself of the overall condition of the ship, including the hygiene of the ship, including engine room and accommodation;

(b) when, after an inspection referred to in paragraph (a) hereof, deficiencies to be rectified at the next port of call have been recorded in the inspection database, the competent authority of such next port may decide not to carry out the verifications referred to in sub-paragraphs (i) and (iii) of paragraph (a) hereof;

(c) whenever there are clear grounds for believing, after the inspection referred to in paragraph (a), 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 on-board operational requirements;

(d) for the purposes of paragraph (c) , “clear grounds” exist when the inspector finds evidence which in his professional judgment warrants a more detailed inspection of the ship, its equipment or its crew: provided that, without prejudice to its generality, the term “clear grounds” includes, the circumstances set out in Annex V to the Directive.

Expanded inspections.

9. (1) The following categories of ships are eligible to an expanded inspection in accordance with Annex I Part II 3A to the Directive:

- (a) ships with high risk profile,
- (b) passenger ships, oil tankers, gas or chemical tankers or bulk carriers, older than 12 years of age,
- (c) ships subject to a re-inspection following a refusal of access order issued in accordance with regulation 11.

(2) The operator or master of the ship shall ensure that sufficient time is available in the operating schedule to allow the expanded inspection to be carried out:

Provided that, without prejudice to control measures required for security purposes, the ship shall remain in the port until the inspection is completed.

(3) On receipt of a pre-notification provided by a ship eligible for a periodic expanded inspection, the competent authority shall inform the ship if no expanded inspection is to be carried out.

(4) The scope of an expanded inspection, including the risk areas to be covered, is set out in Annex VII to the Directive.

Safety and security
guidelines and
procedures.

10. (1) When carrying out inspections, inspectors shall follow the procedures and guidelines specified in Annex VI to the Directive.

(2) As far as security checks are concerned, the competent authority shall apply the relevant procedures set out in Annex VI to the Directive to all ships referred to in Articles 3(1), 3(2) and 3(3) of Regulation (EC) No 725/2004 of the European Parliament and of the Council, calling at Maltese ports and anchorages, unless they fly the Maltese flag.

(3) The provisions of regulation 9 concerning expanded inspections shall apply to ro-ro ferries and high-speed passenger craft, referred to in Article 2(a) and (b) of Directive 1999/35/EC:

Provided that when a ship has been surveyed in accordance with articles 6 and 8 of Directive 1999/35/EC by a host

State which is not the flag State of the ship, such specific survey shall be recorded as a more detailed or an expanded inspection, as relevant, in the inspection database and taken into account for the purposes of regulations 6 and 7 hereof:

Provided further that without prejudice to a prevention of operation of a ro-ro ferry or a high-speed craft decided in accordance with Article 10 of Directive 1999/35/EC, the provisions of these regulations concerning rectification of deficiencies, detention, refusal of access, follow up to inspections, as appropriate shall apply.

11. (1) The competent authority shall ensure that no access to any port in Malta shall be granted, if the ship:

Refusal of access to certain ships.

(a) flies the flag of a State whose detention rate falls into the black list, adopted in accordance with the Paris Memorandum Of Understanding on the basis of information recorded in the inspection database and as published annually by the Commission, and has been detained or has been issued with a prevention of operation order under Directive 1999/35/EC more than twice in the course of the preceding 36 months in a port or anchorage of a State signatory to the Paris Memorandum Of Understanding; or

(b) flies the flag of a State whose detention rate falls into the grey list, adopted in accordance with the Paris Memorandum Of Understanding on basis of information recorded in the inspection database and as published annually by the Commission, and has been detained or has been issued with a prevention of operation order under Directive 1999/35/EC more than twice in the course of the preceding 24 months in a port or anchorage of a State signatory of the Paris Memorandum Of Understanding.

(2) The refusal of access in accordance with subregulation (1) shall become applicable as soon as the ship has been authorised to leave the port or anchorage where it has been the subject of a third detention and where a refusal of access order has been issued.

(3) The refusal of access order shall be lifted only after a period of three months has passed from the date of issue of the order and when the conditions in paragraphs 3 to 9 of Annex VIII to the Directive are met:

Provided that when a ship is subject to a second refusal of access, such period shall be of 12 months.

(4) In the case a ship is subject to any subsequent detention in a port or anchorage within the Community, such ship shall not be granted access to any port and anchorage within the Community. This third refusal of access order may be lifted after a period of 24 months has passed from the issue of the order and only if:

(a) the ship flies the flag of a State whose detention rate falls neither into the black list nor the grey list referred to in sub regulation 1 hereof;

(b) the statutory and classification certificates of the ship are issued by an organisation or organisations recognised under Regulation (EC) No 391/2009 of the European Parliament and of the Council of 23 April 2009 on common rules and standards for ship inspection and survey organisations;

(c) the ship is managed by a company with a high performance according to Annex I Part I.1 to the Directive; and

(d) the conditions in paragraphs 3 to 9 of Annex VIII to the Directive are met:

Provided that any ship not meeting the criteria specified in this sub-regulation, after a period of 24 months has passed from the issue of the order, shall be permanently refused access to any port and anchorage within the Community.

(5) Any subsequent detention in a port or anchorage within the Community after the third refusal of access shall result in the ship being permanently refused access to any port and anchorage within the Community.

Report of inspection
to the master.

12. On completion of an inspection, a more detailed inspection or an expanded inspection, the inspector shall draw up a report in accordance with Annex IX to the Directive and a copy of the inspection report shall be provided to the ship's master.

Rectification and
detention.

13. (1) Any deficiencies confirmed or revealed during an inspection shall be rectified in accordance with the Conventions to the satisfaction of the competent authority.

(2) (a) In the case of deficiencies which are clearly hazardous to safety, health or the environment, the competent authority shall order the ship to be detained, or shall order the operation in the course of which the deficiencies are revealed to be stopped.

(b) A detention order or an order for the stoppage of an operation may include a direction that a ship shall remain in a particular place, or shall move to a particular anchorage or berth, and may also specify circumstances when the master of a ship may move his ship from a specified place for reasons of safety or prevention of pollution.

(c) A detention order or an order for 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, proceed to sea 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.

(d) Where deficiencies as referred to in this sub-regulation are found and cannot be rectified in the port of detention, the relevant provisions of regulation 16 shall apply.

(3) When exercising his professional judgement as to whether or not a ship is to be detained, the inspector shall apply the criteria set out in Annex X to the Directive.

(4) A ship shall be detained if not equipped with a functioning voyage data recorder, when use of such recorder is compulsory in accordance with Directive 2002/59/EC. If such deficiency cannot be readily rectified in the port of detention, the competent authority may either allow the ship to proceed to the nearest appropriate repair yard where it shall be readily rectified or require that the deficiency is rectified within a maximum period of thirty days. For these purposes, the procedures laid down in regulation 16 shall apply.

(5) In exceptional circumstances, where the overall condition of a ship is obviously substandard, the competent authority may suspend the inspection of that ship until the responsible parties have taken the steps necessary to ensure that it complies with the relevant requirements of the Conventions, and in the meantime the ship shall be considered to be detained.

(6) Without prejudice to any other requirement in the Convention enactments, in the event of detention, the competent authority shall immediately inform, in writing and include the report of inspection therewith, the flag State administration or, when this is not possible, the Consul or, in his absence, the nearest diplomatic representative of the State of the flag, of all the circumstances in which intervention was deemed necessary. In addition, nominated surveyors or recognised organisations responsible for the issue of classification certificates or statutory certificates on behalf of the State of the flag administration in accordance with Conventions shall also be notified, where relevant.

(7) When exercising port State control under these regulations, all possible efforts shall be made to avoid a ship being unduly detained or delayed. If a ship is unduly detained or delayed, the owner or operator shall be entitled to compensation for any loss or damage suffered. In any instance of alleged undue detention or delay the burden of proof shall lie with the owner or operator of the ship.

Complaints.

14. (1) The competent authority shall subject all complaints to a rapid initial assessment. If it is determined that a complaint is justified, the competent authority shall take the necessary action, in particular, ensuring that anyone directly concerned by that complaint may make their views known.

(2) Where the competent authority deems the complaint to be manifestly unfounded, it shall inform the complainant of its decision and of the reasons therefor.

(3) The identity of the complainant shall not be revealed to the master or the shipowner of such ship. The inspector shall ensure confidentiality during any interviews of crew members.

Right of appeal.

15. (1) Subject to the provisions of this regulation, the owner or the operator of a ship or his representative in Malta shall have a right of appeal against a decision for detention or refusal of access taken by the competent authority.

(2) The competent authority shall properly inform the master of a ship referred to in sub-regulation (1), of the right of appeal.

(3) An appeal shall not cause the detention or refusal of access to be suspended.

(4) An appeal against a decision for detention or refusal of access may be made by means of an application before the Court of Appeal (Inferior Jurisdiction).

(5) An appeal for the purpose of subregulation (4) shall be filed within twenty days of the service of the order of detention or stoppage of operation or the day of refusal of access, as the case may be, and shall be served on the competent authority which shall reply thereto within ten days of notification.

(6) If the owner or the operator of a ship or his representative in Malta shows to the satisfaction of the Court that -

(a) the matter did not constitute a valid basis for the relevant inspector's opinion, and

(b) there were no reasonable grounds for the inspector to form that opinion,

the Court may award the owner such compensation in respect of any actual loss suffered by him in consequence of the detention or refusal of access as it deems fit.

(7) The burden of satisfying the Court as to the matters specified in sub-regulation (6) shall lie with the owner or the operator of a ship or his representative in Malta, as the case may be.

(8) The Court shall also have regard, in coming to its decision, to any matters not specified in the order of detention or refusal of access order that appears to it to be relevant as to whether the ship was or was not liable to be detained or refused access.

(9) Where the Court decides that the matter did not constitute a valid basis for the inspector's opinion, it shall either cancel the order of detention or refusal of access or shall affirm the order with such modifications as it may in the circumstances deem fit.

(10) The Court shall include in its findings whether there was or not a valid basis for the order of detention or refusal of access.

(11) When as a result of an appeal or of a request made by the owner or the operator of a ship or his representative in Malta, a detention order or refusal of access order is revoked or amended, the competent authority shall ensure that:

(a) the inspection database is amended accordingly without delay, and

(b) within 24 hours of such decision, that the information is published in accordance with Annex XIII to the Directive.

Follow-up to inspections and detentions.

16. (1) Where deficiencies referred to in regulation 13(2) cannot be rectified in Malta, the competent authority may allow the ship concerned to proceed without undue delay, to the appropriate repair yard nearest to the port of detention, as chosen by the master and the authorities concerned, where follow-up action can be taken, provided that the conditions determined by the competent authority of the flag State and agreed to by the competent authority are complied with. Such conditions shall ensure that the ship can proceed 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.

Provided that when the decision to send a ship to a repair yard is due to a lack of compliance with IMO Resolution A. 744(18), either with respect to a ship's documentation or with respect to a ship's structural failures and deficiencies, the competent authority may require that the necessary thickness measurements be carried out in the port of detention before the ship is allowed to sail.

(2) In the circumstances referred to in sub-regulation (1), the competent authority shall notify the competent authority of the State where the repair yard is situated, the parties mentioned in regulation 13 (6) and any other authority as appropriate of all the conditions for the voyage.

(3) When the competent authority receives a notification analogous to the one referred to in sub-regulation (1) from the competent authority of another State, it shall inform the notifying authority of the action taken.

(4) The competent authority shall take measures to ensure that ships that proceed to sea from a port in any other

Member State in circumstances analogous to those referred to in sub-regulation (1) –

(a) without complying with the conditions determined by the competent authority in the port of inspection; or

(b) which refuse to comply with the applicable requirements of the Conventions by not calling into the indicated repair yard,

are refused access to any port in Malta, until the owner or operator has provided evidence to the satisfaction of the competent authority of the port of inspection where the ship was found to be deficient that the ship fully complies with all applicable requirements of the Conventions.

(5) If a ship proceeds to sea from a port in Malta without complying with the conditions determined by the competent authority in accordance with sub-regulation 4(a) hereof, the competent authority shall immediately alert the competent authorities of all the other Member States.

(6) If a ship to which sub-regulation 4(b) hereof applies is to proceed to a repair yard in Malta, but fails to call into the indicated repair yard, the competent authority shall immediately alert the competent authorities of all the other Member States.

(7) Before denying entry pursuant to circumstances analogous to those referred to in sub-regulations (5) and (6) hereof, the competent authority may request consultations with the flag administration of the ship concerned.

(8) Notwithstanding the provisions of sub-regulation (4) hereof, access to a port in Malta may be permitted by the competent authority in the event of force majeure or overriding safety considerations, or to reduce or minimise the risk of pollution or to have deficiencies rectified, provided adequate measures to the satisfaction of the competent authority have been implemented by the owner, the operator or the master of the ship to ensure safe entry.

17. (1) Inspections under these regulations shall be carried out only by inspectors who fulfill the qualification criteria specified in Annex XI to the Directive and who are authorised to carry out port State control by the competent authority.

Professional profile of inspectors.

(2) When the required professional expertise cannot be provided by the competent authority, the inspector of that competent authority may be assisted by any person with the required expertise.

(3) The inspectors carrying out port State control and the persons assisting them shall have no commercial interest either in the port of inspection or in the ships inspected, nor shall the inspectors be employed by, or undertake work on behalf of, non-governmental organisations which issue statutory and classification certificates or which carry out the surveys necessary for the issue of those certificates to ships.

(4) Each inspector shall carry a personal document in the form of an identity card issued by the competent authority indicating that the inspector is authorised to carry out inspections.

Reports from pilots
and port authorities.

18. (1) Pilots of Malta, engaged in berthing or unberthing of ships or engaged on ships bound for a port or in transit within Malta shall immediately inform the competent authority whenever they learn in the course of their normal duties that there are apparent anomalies which may prejudice the safe navigation of the ship, or which may pose a threat of harm to the marine environment.

(2) If port authorities, in the course of their normal duties, learn that a ship within their port has apparent anomalies which may prejudice the safety of the ship or poses an unreasonable threat of harm to the marine environment, such authority shall immediately inform the competent authority about such deficiencies.

(3) The pilots or port authorities referred to in sub-regulations (1) and (2) shall report at least the following information, in electronic format whenever possible:

- (a) ship information (name, IMO identification number, call sign and flag),
- (b) sailing information (last port of call, port of destination),
- (c) a description of apparent anomalies found on board.

(4) The competent authority shall ensure that proper follow-up action is taken on apparent anomalies notified by pilots and port authorities or bodies and shall record the details of action taken.

19. The port authorities, other relevant authorities and other commercial organisations shall cooperate with the competent authority in order that the competent authority obtains the following information:

Exchange of information and cooperation.

(a) information notified in accordance with regulation 9 and Annex III to the Directive,

(b) information concerning ships which have failed to notify any information according to the requirement of the Directive and to Directive 2000/59/EC of the European Parliament and of the Council of 27 November 2000 on port reception facilities for ship-generated waste and cargo residues and Directive 2002/59/EC, as well as, if appropriate, with Regulation (EC) No 725/2004,

(c) information concerning ships which have proceeded to sea without having complied with Articles 7 or 10 of Directive 2000/59/EC,

(d) information concerning ships which have been denied entry or expelled from port on security grounds,

(e) information on apparent anomalies in accordance with regulation 18 hereof.

20. The competent authority shall provide the European Commission with the information listed in Annex XIV to the Directive, at the intervals stated therein.

Data to monitor implementation.

21. (1) In the event that the inspections referred to in regulations 8 and 9 confirm or reveal deficiencies in relation to the requirements of a Convention warranting the detention of a ship, all costs relating to the inspections in any normal accounting period shall be covered by the shipowner or the operator of a ship or by his representative in Malta.

Reimbursement of costs.

(2) All costs relating to inspections carried out by the competent authority under the provisions of regulation 11 shall be charged to the owner or operator of the ship.

(3) In the case of detention of a ship all costs relating to the detention in port shall be borne by the owner or operator of the ship.

(4) The detention or stoppage of operation shall not be lifted until full payment is made or a sufficient guarantee is given for reimbursement and payment of the costs.

Offences and penalties.

22. (1) Where any order for the detention of a ship or for stoppage of operation of a ship is breached, the owner or operator of a ship and her master shall each be guilty of an offence and shall for each offence be liable to a fine (*multa*) not exceeding one thousand units.

(2) Where a ship -

(a) fails to proceed to a repair yard as specified in accordance with regulation 16(1) or breaches any of the conditions which may have been imposed thereunder, or

(b) enters a port in breach of a refusal of access to enter port,

the owner or operator of the ship and her master shall each be guilty of an offence and shall for each offence be liable to a fine (*multa*) not exceeding one thousand units.

(3) Where any person fails to comply with the provisions of regulation 5(1) and with those of regulation 18, such person shall be guilty of an offence in each case and shall for each offence be liable to a fine (*multa*) not exceeding one thousand units.

(4) Any person who obstructs an inspector or any person assisting the inspector shall be guilty of an offence and shall for each offence be liable to a fine (*multa*) not exceeding five hundred units.

Revokes L.N. 12 of 2004.

23. The Merchant Shipping (Port State Control) Regulations, 2004 are hereby being revoked.