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Republic of Latvia

Cabinet

Regulation No. 439

Adopted 7 June 2011

## **Regulations Regarding the Implementation of Flag State Supervision of Ships**

*Issued pursuant to  
Section 12, Paragraph three and Section 17, Paragraph four  
of the Maritime Administration and Marine Safety Law*

### **1. General Provisions**

1. This Regulation prescribes:

1.1. the procedures for the implementation of flag State supervision of ships in relation to inspections of Latvian ships and the periodicity thereof, the certificates of ships to be issued, the suspension of operation thereof or cancellation of certificates, the recognition of ship certificates issued by foreign states, ship class inspections; and

1.2. the functions and rights of ship control inspectors of the Maritime Safety Inspectorate (hereinafter – Inspectorate) of the State joint stock company “Maritime Administration of Latvia” (hereinafter – Maritime Administration), when implementing flag State supervision of ships.

2. For the purposes of this Regulation:

2.1. recognised organisation – a classification society recognised in accordance with 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, and with which the Maritime Administration has entered into an authorisation agreement;

2.2. international regulatory enactments – international regulatory enactments specified in Section 11, Paragraphs one and two of the Maritime Administration and Marine Safety Law, as well as the codes binding on these regulatory enactments in their up-to-date version;

2.3. statutory certificate – a certificate of ship (certificate) issued in accordance with international regulatory enactments; and

2.4. certificate of class – a document issued by a recognised organisation certifying that the ship taking into account its construction and mechanical properties is fit for a particular use or service in accordance with the rules and procedures laid down and made public by that recognised organisation.

3. The Inspectorate shall implement the flag State supervision of Latvian ships by performing the following activities:

3.1. inspections of Latvian ships in order to evaluate the conformity of the construction, technical condition, equipment, crew, operation and maintenance thereof with the requirements of the international regulatory enactments;

3.2. certification of Latvian ships;

3.3. evaluation and approval of Latvian shipbuilding and modernisation projects, documentation regarding the stability of a ship, the pollution contingency plan in case of an accident, the ship's manual and other documentation of the ship specified in international regulatory enactments;

3.4. general supervision of Latvian shipbuilding and modernisation works;

3.5. supervision of the compliance with the requirements of the International Safety Management Code (hereinafter – ISM Code) in relation to Latvian ships and shipping companies, which own Latvian ships or manage Latvian ships;

3.6. supervision of the compliance with the requirements of the MLC Convention.

*[24 February 2015]*

4. For such Latvian ships which are engaged in international voyages and, in accordance with the tonnage certificate issued by the Inspectorate or recognised organisation, have the gross tonnage of 500 and above, the Maritime Administration shall authorise a recognised organisation for the performance of the functions referred to in Paragraph 3 of this Regulation in accordance with Section 18, Paragraph one of the Maritime Administration and Marine Safety Law and the laws and regulations regarding the procedures for monitoring of classification societies (recognised organisations). The recognised organisation shall perform inspections of such Latvian ships and issue the statutory certificates specified in international regulatory enactments and a corresponding class certificate, but the Maritime Administration shall ensure verification of the fulfilment of the requirements laid down in the international legal acts binding to Latvia on such ships. The Inspectorate shall perform additional inspections of the abovementioned Latvian ships in accordance with Paragraphs 9, 10, 11, 12, 13 and 29 of this Regulation.

*[24 February 2015]*

5. For Latvian ships which do not engage in international voyages or gross tonnage of which in accordance with the tonnage certificate issued by the Inspectorate or recognised organisation is less than 500, flag State supervision shall be performed by the Inspectorate or recognised organisation according to the choice of the shipowner, taking into account the requirements referred to in Chapter IV of this Regulation. If the shipowner chooses the services of a recognised organisation, the Inspectorate shall perform additional inspections of the Latvian ship in accordance with Paragraphs 9 and 12 of this Regulation. If the Latvian shipowner chooses supervision of the Inspectorate, the Inspectorate shall perform the supervision of such ships in accordance with the laws and regulations regarding ship safety and taking into account the requirements referred to in Paragraphs 22 and 30 of this Regulation.

6. The flag State supervision of Latvian ships in relation to the fulfilment of requirements laid down in the International Ship and Port Facility Security Code and other laws and regulations related to ship and port security shall be performed by the Ship and Port Security Inspectorate of the Maritime Administration.

7. The activities referred to in Paragraphs 3 and 6 of this Regulation shall be paid services. In order to co-ordinate the time and place of inspection of a Latvian ship, an operator or bare boat charterer has a duty to submit the relevant application to the Inspectorate regarding the inspections specified in Paragraphs 9, 11, 13, 19, 22, 23, 24, 27, 29 and 30 of this Regulation.

8. The flag State supervision of Latvian ships shall be implemented in accordance with quality management system complying with international standards which has been introduced and maintained by the Maritime Administration and which has been certified and supervised by an independent accredited certification institution.

## **2. Inspections and Certificates of Latvian Ships**

9. Inspectorate shall perform annual flag State inspections of Latvian ships which, in accordance with this Regulation, are under the supervision of recognised organisations, in order to ascertain regarding the conformity of Latvian ships with the statutory certificates issued by recognised organisations, as well as in order to inspect the conformity of the crew, operation and maintenance of the Latvian ships with the requirements of international regulatory enactments and to control the quality of the implementation of the functions delegated to recognised organisations.

10. If it is not possible to ensure the Inspectorate to board the Latvian ship, the inspection may be delayed for a time period up to six months, upon request of the shipowner, provided that inspection of the Latvian ship shall be performed in the first port where the access on board is possible.

11. If the Latvian ship has been detained during the port State control or significant deficiencies of a Latvian ship have been identified during flag State inspection, which affect the ship safety, human safety or may cause environmental pollution, or the crew of the Latvian ship or the Latvian shipowner has not reported an accident or damage in accordance with Chapter I, Regulation 11, Paragraph “c” of the International Convention for the Safety of Life at Sea 1974 with further amendments (hereinafter – SOLAS Convention), and, therefore, an emergency situation or environmental pollution could have occurred or people could have been killed, as well as if the crew of the Latvian ship has violated the requirements of national regulatory enactments regarding maritime safety or international regulatory enactments, the Inspectorate shall determine an enhanced survey regime and additional requirements (Annex) for the Latvian ship and shipping company which manages it. The enhanced survey regime shall be in effect for two years. If after two years the activities of the Latvian ship and shipping company conform with the requirements of international regulatory enactments and national regulatory enactments, the enhanced survey regime shall be cancelled.

12. If there are suspicions regarding the non-conformity of the Latvian ship with the requirements of international regulatory enactments, the Inspectorate has the right to perform unscheduled inspections (operational inspections) thereof.

13. If during inspection of the Latvian ship the Inspectorate identifies the non-conformity of the ship with the requirements of international regulatory enactments or if non-conformity with the international regulatory enactments has occurred to the Latvian ship due to an accident at sea, or if the Latvian ship has been detained in the port of a foreign state by port State control, the Inspectorate shall request rectification of deficiencies and a repeated inspection of the Latvian ship, as well as inform the master of the Latvian ship, the shipowner or operator, or the bare boat charterer and recognised organisation thereof.

14. The Inspectorate shall take a decision to withdraw statutory certificates issued by it or a recognised organisation, inform the master of the Latvian ship and the shipowner or operator or the bare boat charterer and the recognised organisation, as well as propose to the registrar of the Latvian Ship Register of the Maritime Administration (hereinafter – Latvian Ship Register) that the ship be deleted from the Latvian Ship Register, in the following cases:

14.1. such non-compliance of the Latvian ship with the requirements of international regulatory enactments has been identified, which may cause the loss of the ship and endanger human life;

14.2. the Latvian ship has been detained twice during the port State control within 24 months.

15. The Inspectorate may exempt a Latvian ship from the fulfilment of individual requirements laid down in this Regulation in accordance with the international regulatory enactments binding on Latvia regarding maritime safety, issuing an exemption certificate thereto. Exemption certificate shall be issued by the Inspectorate or a recognised organisation in accordance with authorisation of the Inspectorate.

### **3. Stability of Latvian Ships**

16. Ships registered in the Latvian Ship Register, which have been constructed before 1 July 2010, shall comply with the requirements of the Code on Intact Stability (adopted by the resolution of the International Maritime Organisation A.749(18)).

17. Ships registered in the Latvian Ship Register, which have been constructed after 1 July 2010, shall comply with the requirements of the mandatory part A of the International Code on Intact Stability (adopted by the resolution of the International Maritime Organisation MSC.267(85)).

### **4. Supervision of Building and Modernisation or Rebuilding Works of Latvian Ships**

18. Latvian ships shall be constructed in compliance with the requirements of a recognised organisation in accordance with Regulation 3-1 of Chapter II-1, Part A-1 of the SOLAS Convention.

19. A Latvian ship shall be built under the supervision of a recognised organisation. The supervision of the building of such Latvian ships, gross tonnage of which in accordance with the tonnage certificate issued by the Inspectorate is less than 500, shall be performed by a recognised organisation or the Inspectorate according to the choice of the owner in compliance with Paragraph 18 of this Regulation.

20. The modernisation or conversion of a Latvian ship shall be performed in accordance with the requirements laid down in Paragraph 18 of this Regulation.

21. The supervision of modernisation or conversion of such Latvian ships, gross tonnage of which in accordance with the tonnage certificate issued by the Inspectorate is 500 or more, shall be performed by a recognised organisation.

22. The supervision of modernisation or rebuilding of such Latvian ships, gross tonnage of which in accordance with the tonnage certificate issued by the Inspectorate is less than 500, shall be performed by a recognised organisation or the Inspectorate according to the choice of the Latvian shipowner.

### **5. Supervision of the Compliance With the Requirements of the ISM Code**

23. The Inspectorate shall perform audits of safety management system on Latvian ships which are not engaged in international voyages and in shipping companies which manage them, and issue the appropriate certificates in accordance with Regulation (EC) No 336/2006 of the

European Parliament and of the Council of 15 February 2006 on the implementation of the International Safety Management Code within the Community and repealing Council Regulation (EC) No 3051/95.

24. According to the choice of the Latvian shipowner, the Inspectorate or a recognised organisation shall perform audits of the safety management system on Latvian ships which perform international voyages and in shipping companies which manage them, and issue the relevant statutory certificates in accordance with the requirements of the ISM Code.

25. The Inspectorate shall participate in audits of the shipping companies and the safety management system of the Latvian ships, which are performed by a recognised organisation.

26. In the cases referred to in Paragraph 11 of this Regulation the Inspectorate is entitled to take a decision to take over the supervision of the compliance with the requirements of the ISM Code from a recognised organisation.

### **5.1 Supervision of the Compliance With the Requirements of the MLC Convention**

*[24 February 2015]*

26.<sup>1</sup> If the Inspectorate receives a complaint or obtains evidence that a Latvian ship does not comply with the requirements of the MLC Convention, the Inspectorate shall evaluate the complaint or evidence received and take measures in order to rectify the deficiencies detected.

26.<sup>2</sup> The identity of such person shall not be disclosed to a shipowner, a representative of a shipowner or a ship operator, who submitted a complaint regarding a threat or non-compliance of the living and working conditions of seamen with the requirements of laws and regulations. The abovementioned persons are not notified that an inspection has been carried out on the ship on the basis of a complaint received.

26.<sup>3</sup> The Maritime Administration shall prepare and submit a current list of recognised organisations to the Ministry of Transport, which are authorised to perform inspections of Latvian ships, upon its assignment, regarding compliance with the requirements of the MLC Convention. The functions, which may be performed by the recognised organisations, shall be indicated in the list. The Ministry of Transport shall submit the abovementioned information to the International Labour Office.

## **6. Supervision of the Flag State when Registering a Ship in the Latvian Ship Register**

### **6.1. Ship Inspections**

27. Prior to the registration of a ship in the Latvian Ship Register a shipowner shall submit all statutory certificates issued for the ship and survey statements to the Inspectorate. The Inspectorate shall compile the information regarding the ship available in international databases and the inspection results thereof and request the owner to present the ship to the Inspectorate. The Inspectorate shall prepare an opinion on the registration of the ship in the Latvian Ship Register.

28. If a ship is under the supervision of a recognised organisation, after registration of the ship in the Latvian Ship Register, but prior to the commencement of the ship's operation under the flag of Latvia, it shall perform inspections of a ship provided for in international regulatory enactments at least in the amount of annual survey and shall issue the appropriate ship certificates. If the Inspectorate has justified suspicions regarding the non-conformity of the ship

with the requirements of international regulatory enactments, it shall request a recognised organisation to perform inspections of the ship in accordance with the requirements of Chapter I, Regulation 10, Paragraph “a”, Sub-paragraphs “ii” and “v” of the SOLAS Convention (with the dry docking of a ship).

29. After registration of a ship in the Latvian Ship Register, but prior to the commencement of the ship’s operation under the flag of Latvia, the Inspectorate shall perform a flag State inspection of the ship in order to ascertain regarding the conformity of the ship with the statutory certificates issued by recognised organisations, as well as in order to inspect the conformity of the ship crew, operation and maintenance with the requirements of international regulatory enactments. The quality of the fulfilment of functions delegated to recognised organisations shall also be controlled with the relevant inspections.

30. If, in accordance with Paragraph 5 of this Regulation the shipowner chooses the supervision of the Inspectorate, after registration of a ship, but prior to the commencement of the operation of the ship under the flag of Latvia, the Inspectorate shall perform inspection of the ship in accordance with the laws and regulations regarding ship safety.

## **6.2. Exchange of Information**

31. Upon re-registering a ship from the ship register of another European Union state into the Latvian Ship Register, the Inspectorate, if necessary, shall request information regarding the ship to be re-registered from the competent authority of such state, including copies of the statutory certificates, the stability information, the results of flag State inspections and the results of port State control.

32. In the case referred to in Paragraph 31 of this Regulation, the Inspectorate shall, if necessary, request in addition also other information related to the safety of the ship, including data regarding deficiencies not eliminated.

## **7. Storage and Exchange of Information**

33. Within the framework of the implementation of flag State supervision the Maritime Administration shall compile and maintain the information regarding:

33.1. registered Latvian ships (including name of ship, IMO number, type of ship, technical specifications of ship);

33.2. Latvian ships excluded from the Latvian Ship Register during the last 12 months;

33.3. inspections and audits of Latvian ships performed, results thereof and detected deficiencies and non-conformities;

33.4. authorised recognised organisations and access to databases of such recognised organisations where the information regarding inspections and audits of Latvian ships performed by recognised organisation is stored;

33.5. port State control inspections performed for Latvian ships including deficiencies detected and information regarding detention of Latvian ships;

33.6. stability of Latvian ships (copies of the documents Stability Information shall be stored);

33.7. accidents and casualties in which Latvian ships are involved.

34. Upon request of the Inspectorate recognised organisations shall provide the necessary information regarding Latvian ships which have been excluded from the Latvian Ship Register for a period of time when the relevant Latvian ships were registered in the Latvian Ship Register.

35. If other flag State requests the information regarding a ship which has been registered in the Latvian Ship Register previously, the Inspectorate shall immediately send the information related to the ship safety to the abovementioned state, including data regarding deficiencies not eliminated.

36. If Latvia in accordance with the international document of 1982 Paris Memorandum of Understanding on Port State Control (hereinafter – Paris Memorandum of Understanding) is included in the „black" or two consecutive years in the "grey" list which is published in the newest annual report on the implementation of Paris Memorandum of Understanding on Port State Control, the Maritime Administration shall prepare and the Ministry of Transport shall, not later than four months after the publication of the report of Paris Memorandum of Understanding, submit a report to the European Commission regarding a detailed analysis on the main reasons for detention of Latvian ships and measures taken for the improvement of the situation.

## **8. Closing Provision**

37. Cabinet Regulation No. 882 of 4 August 2009, Regulations Regarding the Implementation of Flag State Supervision of Ships (*Latvijas Vēstnesis*, 2009, No. 126), is repealed.

### **Informative Reference to the European Union Directives**

*[24 February 2015]*

This Regulation contains legal norms arising from:

- 1) Directive 2009/21/EC of the European Parliament and of the Council of 23 April 2009 on compliance with flag State requirements;
- 2) Directive 2013/54/EU of the European Parliament and of the Council of 20 November 2013 concerning certain flag State responsibilities for compliance with and enforcement of the Maritime Labour Convention, 2006.

Prime Minister

V. Dombrovskis

Minister for Transport

U. Augulis

### Additional Requirements for a Ship and Shipping Company in an Enhanced Survey Regime

Field	Activity	Control Criteria of Ship Conformity							
		flag State or port State control inspection with few deficiencies (up to 10)	flag State or port State control inspection with more than 10 deficiencies	survey performed by a flag State with ship detention	port State control inspection with ship detention	repeated detention of a ship during the port State control or flag State inspection within the last 24 months	repeated detention of a ship during the port State control or flag State inspection within the last 12 months	third detention of a ship during the port State control or flag State inspection within the last 36 months	
<b>Ship</b>	<b>survey regime</b>	Annual flag State survey performed	X						
	Unscheduled flag State survey performed not later than within six months and taking of a decision regarding the need to reduce the interval between flag State surveys to six months		X	X					
	Mandatory flag State survey performed once every six months Elimination of deficiencies identified during the survey until the departure of the ship from the port					X			
	Mandatory flag State survey performed once every three months Rectification of deficiencies detected during the survey until the departure of the ship from the port						X		



		Survey performed by a recognised organisation together with the Inspectorate at least in the amount of the annual survey				X	X			
	<b>additional activities</b>	Additional audit of the ship safety management system performed by a recognised organisation together with the Inspectorate in the amount of the initial audit			X*	X	X			
		Mandatory annual audits of the ship safety management system				X	X			
		Takeover of verification of the ship safety management system from a recognised organisation						X		
		Deletion of a ship from the Latvian Ship Register, prohibition to sail under the flag of Latvia							X	X
<b>Company</b>		Report on rectification of deficiencies	X	X	X	X	X			
		Explanation regarding reasons for detention			X	X	X			
		Additional audit of the ship safety management system performed by a recognised organisation together with the Inspectorate in the amount of the initial audit				X	X			
		Takeover of verification of the ship safety management system from a recognised organisation						X		

	Requesting of additional training for a person and technical superintendents appointed by the company				X**	X		
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Notes.

1. \* If the nature of deficiencies attests to problems with the ship safety management system (ISM).
2. \*\* If the fault of the company in detention of a ship is identified during an additional audit thereof.

Minister for Transport

U. Augulis