

L.N. 484 of 2004

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

Ports Security Regulations, 2004

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 Regulations, 2004. Citation and commencement.

(2) These regulations shall come into force on the 1st December, 2004.

2. (1) The purpose of these regulations is 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). Purpose.

(2) These regulations shall be read and construed together with the Regulation (EC) No. 725/2004 of the European Union and of the Council on enhancing ship and port facility security and in case of conflict between these regulations, the Annex to the Convention and the EC Regulation, the provisions of the latter instrument shall prevail.

3. (1) These regulations apply to:- Application.

(a) the following types of ships:-

(i) passenger ships, including high-speed passenger craft, engaged on international voyages;

(ii) cargo ships, including high-speed craft, of 500 gross tonnage or more engaged on international voyages;

(iii) mobile offshore drilling units; and

(iv) any ship as described in paragraphs (i) to (iii) above engaged in domestic shipping to which these regulations would apply following a mandatory security risk assessment; and

(b) port facilities within the internal and territorial waters of Malta that serve a ship, or a mobile offshore drilling unit, of a type specified in paragraph (a).

(2) These regulations do not apply to:-

(a) warships and troopships; or

(b) naval auxiliaries; or

(c) other ships that are used on Government non-commercial service; or

(d) pleasure craft; or

(e) ships not propelled by mechanical means; or

(f) wooden ships of primitive built; or

(g) fishing vessels; or

(h) ships not engaged in commercial activities.

Interpretation.

4. In these regulations, unless the context otherwise requires:-

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“appropriate inspector” means an inspector appointed in terms of the Merchant Shipping Act;

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“the Authority” means the Malta Maritime Authority established in terms of the Malta Maritime Authority Act;

“authorised person” means:-

(a) an officer acting on a direction of the Authority; or

(b) a member of the police; or

(c) a Customs officer; or

(d) a member of the Armed Forces of Malta;

“the certificate” means a valid International Ship Security Certificate issued in terms of the Code, or a valid Interim International Ship Security Certificate issued in terms 19.4 of the Code;

“clear grounds” are those grounds as defined in Part B of the Code;

“the Code” means the International Code for the Security of Ships and of Port Facilities, as adopted, on the 12th December, 2002 by resolution 2 of the Conference of Contracting Governments to the Convention, and as may be amended by the International Maritime Organisation;

“company” means the owner of the ship or any other organisation or person, such as the manager or the bareboat charterer, who has assumed the responsibility for the operation of the ship from the owner of the ship and who, on assuming such responsibility, has agreed to take over all the duties and responsibilities imposed by the International Safety Management Code;

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“the Convention” means the International Convention for the Safety of Life at Sea (SOLAS), as amended, in the International Convention for the Safety of Life at Sea (Ratification) Act;

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“customs officer” has the same meaning as is given in the Customs Ordinance;

“declaration of security” means an agreement between a ship and a port facility, or another ship, with which it interfaces, that specifies the security measures each must implement;

“designated authority” means the authority appointed under regulation 5 of these regulations, and the term “competent authority for maritime security” that appears in the EC regulation shall be construed accordingly;

“focal point for maritime security” means the body designated under regulation 7 of these regulations;

“high-speed craft” has the same meaning as defined in the regulation XII.2 of the Convention;

“in writing” means printed, typewritten, or otherwise visibly represented, copied, or reproduced, including by fax or email or other electronic means;

“International Safety Management Code” means the International Management Code for the Safe Operation of Ships and for Pollution Prevention adopted by the International Maritime Organisation by Resolution A.741 (18), as amended from time to time by the International Maritime Organisation;

“maritime security” means the combination of preventive measures intended to protect shipping and port facilities against threats of intentional unlawful acts;

“master” has the same meaning as in the Merchant Shipping Act;

“the Minister” means the Minister responsible for ports;

“mobile offshore drilling unit” means a mechanically propelled unit or vessel that is capable of engaging in drilling operations for the exploration for, or exploitation of, resources beneath the seabed, such as liquid or gaseous hydrocarbons, sulphur, or salt;

“passenger ship” means a ship that carries more than 12 passengers;

“port” has the same meaning as in the Malta Maritime Authority Act;

“port facility” means a location, as determined by the Authority, where the ship-port interface takes place, including areas such as anchorages, waiting berths and approaches from seaward as appropriate;

“port facility operator” means:-

- (a) the owner of the port facility; or
- (b) if the owner is not responsible for the management of the port facility –
 - (i) the manager of the port facility; or
 - (ii) any other person, who is, for the time being, responsible for the management of the port facility;

“port facility security officer” means the person designated by the port facility operator as responsible for the development, implementation, revision and maintenance of the port facility security plan and for liaison with the ship security officer and the company security officer;

“port facility security plan” means a plan developed to ensure the application of measures designed to protect the port facility

and ships, persons, cargo, cargo transport units and ship's stores within the port facility from the risks of a security incident;

“port security area” means an area designated under regulation 36 of these regulations as a port security area;

“port service provider” means any operator who is involved in a ship-port interface but who is not a port facility operator, and shall include the following:-

- (a) commercial vessel operators;
- (b) cargo handling operators;
- (c) mooring operators;
- (d) pilotage service operators; and
- (e) towage operators;

“port service provider security officer” means the person designated by the port service provider as responsible for the development, implementation, revision and maintenance of the port service provider security plan and for liaison with the ship security officer, port facility security officer and the company security office, as applicable;

“recognised security organisation” means an organisation with appropriate expertise in security matters and with appropriate knowledge of ship and port operations that is authorised by the Authority to carry out an assessment, a verification, or an approval or certification activity required by Chapter XI-2 of the Annex to the Convention or by Part A of the Code;

“scheduled service” means a series of sailing organized in such a way as to provide a service linking two or more port facilities:-

- (a) either on the basis of a published timetable;
- (b) or with a regularity or frequency such as to constitute a recognizable systematic service;

“security incident” means any suspicious act or circumstance threatening the security of any:-

(a) ship, including a mobile offshore drilling unit and high-speed craft; or

(b) port facility; or

(c) mobile offshore drilling unit; or

(d) ship-port interface; or

(e) ship-to-ship activity;

“security level” means the quantification of the degree of risk that a security incident will be attempted or will occur;

“security level 1” means the level for which minimum appropriate protective security measures must be maintained at all times;

“security level 2” means the level for which appropriate additional protective security measures must be maintained for a period of time as a result of heightened risk of a security incident;

“security level 3” means the level for which further specific protective security measures must be maintained for a limited period of time when a security incident is probable or imminent, although it may not be possible to identify the specific target;

“ship” means every description of boat or craft used in navigation, and includes:-

(a) a barge, lighter, or other like vessel;

(b) a hovercraft or other thing deriving full or partial support in the atmosphere from the reaction of air against the surface of the water over which it operates;

(c) a submarine or other submersible;

(d) a high-speed craft; and

(e) a mobile offshore drilling unit that is not on location;

“ship-port interface” means the interactions that occur when a ship is directly and immediately affected by actions involving the movement of persons, goods, or the provisions of port services to or from the ship;

“ship security officer” means the person on board the ship who is accountable to the master and designated by the company as responsible for the security of the ship, including the implementation and maintenance of the ship security plan, and for liaison with the port facility security officer;

“ship security plan” means a plan developed to ensure the application of measures on board the ship designed to protect persons on board, cargo, cargo transport units, ship’s stores, or the ship from the risks of a security incident;

“ship-to-ship activity” means any activity not related to a port facility that involves the transfer of goods or persons from one ship to another;

“ship’s administration” means the government of the State in which the ship is registered.

5. The Designated Authority responsible for ensuring the implementation of the provisions of these regulations in respect of port facility security and ship-port interface from the point of view of the port facility, shall be the Malta Maritime Authority.

Appointment of Designated Authority.

6. The Designated Authority shall:-

Functions and duties of Designated Authority.

(a) ensure that with respect to each port facility within the ports and territorial limits of Malta that:-

(i) port facility security assessments are carried out, reviewed, and approved; and

(ii) port facility security plans are developed, implemented, maintained and approved;

(b) specify the appropriate security level for port facilities within the internal and territorial limits of Malta;

(c) specify and communicate the measures that must be addressed in a port facility security plan;

(d) determine:-

(i) whether a declaration of security is required; and

(ii) the requirements for any declaration of security;

(e) approve:-

(i) any port facility security assessment carried out by a recognized security organisation;

(ii) any port facility security plan; and

(iii) any amendment to an approved port facility security plan that is specified in these regulations as requiring the approval of the Designated Authority;

(f) exercise control measures;

(g) for the purpose of providing further information, publish standards and codes of practice;

(h) authorise recognised security organisations; and

(i) undertakes any other functions or duties specified in these regulations.

Focal point.

7. (1) The Ministry responsible for shipping and ports shall be the focal point for maritime security.

(2) The duties and functions of this focal point shall be to serve as a contact point for Malta and other states and to facilitate, follow up and inform on the application of the maritime security measures laid down in these regulations.

Establishment of the Maritime Security Committee.

8. There shall be established an inter-ministerial Committee to be designated the Maritime Security Committee (hereinafter referred to as “the Committee”).

Duties of the Maritime Security Committee.

9. Subject to the provisions of these regulations, it shall be the duty of the Committee to:-

(a) advise the Designated Authority and competent authorities on the development, maintenance and promotion of an effective system of maritime security (seaports, ships and related matters pertaining to all relevant security regulations and directives);

(b) develop the necessary strategies and policies to reach all international and national obligations and relevant objectives related to maritime security in general;

(c) develop the necessary directives for the effective response and support to any potential level three threat;

(d) develop contingency plans and procedures relevant to national maritime incidents;

(e) establish policies and schedules for drills, exercises and testing of all contingency plans and procedures, as well as all relevant coordination, training and support for such measures;

(f) coordinate and activate all the necessary resources to implement all the above mentioned measures related to the deliberations that fall within the competencies of this Committee; and

(g) undertake any other issue prescribed in these regulations.

10. (1) The following members of the Committee shall, on an *ex officio* basis, be appointed by the Minister and shall be:-

Composition and
Procedure of the
Maritime Security
Committee.

(a) the Permanent Secretary responsible for ports;

(b) three senior officials of the Malta Maritime Authority, being one from the Corporate Office, one from the Ports Directorate and one from Merchant Shipping Directorate;

(c) the Commander of the Armed Forces of Malta;

(d) the Commissioner of Police;

(e) the Comptroller of Customs; and

(f) the Director of Civil Protection;

Provided that the Minister may appoint other persons as members of the Committee who appear to him to have the experience and to have shown the capacity in matters relating to maritime security.

(2) The Minister shall be the Chairman of the Committee.

(3) The Permanent Secretary responsible for ports shall be the Deputy Chairman of the Committee who shall act instead of the Chairman whenever the Chairman is absent from a meeting of the Committee or is unable for any reason to act as Chairman.

(4) Except for the *ex officio* members, the appointed members shall hold office for such term, not being more than three years, as may be specified in their letter of appointment.

(5) If any vacancy in the Committee occurs during the period of appointment, on account of death, resignation or for any other cause, the Minister shall, as soon as practicable, appoint another person to fill the vacancy: Provided that the Committee and the members thereof may act notwithstanding any such vacancy.

(6) Notwithstanding any other provision of this regulation, the Minister may at any time terminate the appointment of an appointed member, if, in his opinion, such appointed member is unfit to continue in office or has become incapable of properly performing his functions.

(7) The Minister shall, from time to time, appoint a secretary to the Committee.

(8) The Committee shall meet as often as necessary, but in no case less frequently than once in every three calendar months.

(9) The Committee shall decide on the composition and terms of reference of sub-committees or expert groups to which it can give special and specific tasks.

(10) All the decisions of such Committee must be taken by at least five of all the members forming such Committee.

(11) The Committee shall regulate its own procedures.

(12) At the end of each calendar year, the Committee shall prepare an annual report, to be submitted to the Minister and copied to all the members of the Committee within the first quarter of the following year.

The Authority to
give information.

11. The Designated Authority must give to each port facility operator and port service provider conducting operations within the port security area:-

(a) the name or position of the person who is responsible to co-ordinate the security of port facilities;

(b) the contact details of such person; and

(c) the measures to confirm the identity of persons who are authorised to have access to a port security area.

12. The Designated Authority may require a declaration of security if:- When a declaration of security is required.

- (a) it is satisfied that the ship-port interface or ship-to-ship activity poses a risk to persons, property, or the environment; or
- (b) it has received a request under these regulations, and is satisfied that the ship-port interface or ship-to-ship activity poses a risk to persons, property, or the environment.

13. (1) A declaration of security must be completed, signed and dated by the master of, or ship security officer for, the ship and:- Declarations of security.

- (a) if the other party to the agreement is also a ship - the master of, or ship security officer for, that other ship; or
- (b) if the other party to the agreement is a port facility operator - the port facility security officer; or
- (c) if the other party to the agreement is a port service provider - the port service provider security officer.

(2) A declaration of security must specify:-

- (a) the contact details for the parties and signatories to the agreement;
- (b) the period for which the declaration is valid; and
- (c) the security level in force for each party.

(3) The Designated Authority may establish the form of the declaration of security.

(4) A copy of the declaration of security must be kept by the port facility operator and the port service provider for a period of one year, which year begins to run from the day after the declaration ceases to be valid.

14. (1) If the Designated Authority has entered into an alternative security agreement in accordance with the provisions of these regulations, the Designated Authority shall supervise the alternative security arrangements for a port facility covered by that agreement. Alternative security agreements.

(2) Any such agreement shall not compromise the level of security of other ships or of port facilities within Malta.

(3) A master of a ship covered by an alternative security agreement may not conduct any ship-to-ship activity with a ship not covered by that agreement.

(4) The Designated Authority must review each alternative security agreement:-

(a) at an interval specified by the alternative security agreement under review; or

(b) in the absence of a specification by the alternative security agreement under review, every five years.

(5) The review must take into account:-

(a) the experience gained from the agreement;

(b) any changes in the particular circumstances of the ships, port facilities, or routes covered by the agreement; and

(c) any changes in the assessed threats to the security of the ships, port facilities, or routes covered by the agreement.

Equivalent security arrangements.

15. (1) The Designated Authority may authorise a port facility or a group of port facilities to implement other security measures equivalent to those prescribed in Chapter XI-2 of the Annex to the Convention or in the Code if those security measures are at least as effective as the specified measures.

(2) If the Designated Authority authorises an equivalent security arrangement, the Designated Authority shall notify and provide sufficient details of the measures to the focal point and shall subsequently report that arrangement to the International Maritime Organisation as soon as practicable.

(3) Sub-regulation (2) of this regulation does not apply if the port facility or the group of port facilities is covered by an alternative security agreement in terms of regulation 14 of these regulations.

The Authority must specify security levels for port facilities.

16. (1) The Designated Authority must:-

(a) specify, as security level 1, security level 2, or security level 3, the security level of every port facility within the ports and territorial waters of Malta;

(b) change the security level specification if the Designated Authority considers it necessary to reduce or increase the risk of a security incident; and

(c) periodically review and update as necessary, any security level that the Designated Authority specifies.

(2) In establishing a security level, the Authority has to consult with the members of the Maritime Security Committee.

(3) The members of the Maritime Security Committee shall inform the Designated Authority of any information in respect of a threat to ship or port facility security or of a security incident.

(4) Whenever the Designated Authority does not comply with the advice of the Committee, it shall justify its reasons for not so doing to the Committee.

17. (1) The Designated Authority must ensure the provision of:-

The Designated Authority must ensure provision of security level information.

(a) security level information to:-

(i) any ship intending to operate, or operating, within the ports and territorial waters of Malta; and

(ii) every port facility operator and port service provider; and

(b) updated security level information to any:-

(i) other ship intending to operate, or operating, within the territorial limits of Malta; and

(ii) port facility operator and port service provider if the security level has been changed.

(2) For the purpose of this regulation, the Designated Authority must notify the master of the ship, as the Authority deems necessary, by any means of communication, whether or not of a permanent nature.

18. The master of a ship calling in Malta and the company must comply with any requirements specified in these regulations for the security level specified for that ship or class of ship:-

Masters and companies must comply with ship security levels.

(a) before carrying out a ship-port interface in Malta;

(b) before entering a port facility within the ports and territorial waters of Malta; and

(c) while in a port in Malta.

Certificate must be held on board.

19. (1) The master of a ship calling in Malta and the company must ensure that a Certificate is held on board the company's ship.

(2) The Designated Authority may verify that a Certificate is on board a ship if that ship is at a port facility within a port or the territorial limits of Malta.

(3) The master of a ship in a port facility within a port or the territorial limits of Malta must:-

(a) on the request of the Designated Authority, produce the Certificate; and

(b) co-operate with the Designated Authority in any other respect.

Information required of ships intending to enter a port facility.

20. (1) A master of a ship intending to enter a port facility in Malta shall, prior to entry into that port facility, be required to provide the following information to the Designated Authority to ensure compliance with these regulations:-

(a) evidence that the ship possesses a Certificate;

(b) evidence of the security level at which the ship is currently operating;

(c) evidence of the security level at which the ship operated in any previous port where is conducted a ship-port interface during the period of its last ten calls at port;

(d) evidence of any special or additional security measures that were taken by the ship in any previous port where it conducted a ship-port interface during the period of its last ten calls at port;

(e) evidence that the appropriate ship security procedures were maintained during any ship-to-ship activity during the period of its last ten calls at port; and

(f) any other practical security-related information, excluding details of the ship security plan, taking into account the guidance given in the Code.

(2) The master of a ship must keep a record of the information specified in sub-regulation (1) of this regulation for the last ten calls at port facilities.

(3) The information referred to in sub-regulation (1) of this regulation shall be provided to the Designated Authority in a prescribed form and within the following time frames:-

(a) at least twenty-four hours in advance; or

(b) at the latest, at the time the ship leaves the previous port, if the voyage time is less than twenty-four hours; or

(c) if the port of call is not known or if it is changed during the voyage, as soon as the port of call becomes known: Provided that the Designated Authority may exempt scheduled services performed between port facilities located on their territory or performed with other Member States, if:-

(a) the company operating the scheduled services referred to above keeps and updates a list of the ships concerned and sends it to the Designated Authority; and

(b) for each voyage performed, the information referred to in sub-regulation (1) of this regulation is kept available for the Designated Authority upon request. The company must establish an internal system to ensure that, upon request, 24 hours a day and without delay, the said information can be sent to the Designated Authority.

(4) If a master or company declines to provide the information or confirmation specified in sub-regulation (1) or sub-regulation (3) of this regulation, the Designated Authority may:-

(a) attempt to establish communication with the master and the ship's administration to rectify the non-compliance; and

(b) if the communication does not result in rectification, take one or more of the following steps:-

(i) require rectification of the non-compliance;

(ii) require the ship to proceed to a specified location within Maltese territorial waters or port;

(iii) request an appropriate inspector to inspect the ship for the purpose of ascertaining compliance with the certification requirements of these regulations, if the ship is within the territorial waters or port of Malta;

(iv) deny the ship entry, if:-

(A) the Designated Authority has reasonable grounds to believe that the ship poses an immediate threat to the security or safety of persons, ships, or other property; or

(B) there are no other appropriate means for removing that threat.

(5) Before taking a step specified in sub-regulation (4)(b) of this regulation, the Designated Authority must inform the master of the ship of the Authority's intention to take the step by giving notice to the master of the ship as the Designated Authority considers necessary by the means of communications, whether or not of a permanent nature, as the Authority considers appropriate in the circumstances.

(6) A step that is taken under sub-regulation (4)(b) of this regulation:-

(a) must be proportionate, taking into account the guidance given in part B of the Code; and

(b) may additionally or alternatively include other lesser administrative or corrective measure.

(7) A ship may be denied entry under sub-regulation (4)(b)(iv) of this regulation despite the provisions of any other enactment.

(8) If a ship is denied entry under sub-regulation (4)(b)(iv) of this regulation:-

(a) all possible efforts must be made to avoid a ship being unduly detained or delayed; and

(b) a person may be allowed to leave the ship, or access to the ship must be allowed, for:-

(i) humanitarian reasons; or

(ii) emergency reasons; or

(iii) security purposes.

(9) On receiving the information under sub-regulation (4) of this regulation, the master of the ship may withdraw the intention to enter the port.

(10) If a ship is denied entry to the port under sub-regulation (4)(b)(iv) of this regulation, a port facility operator or port service provider must cease providing services to that ship if the Designated Authority so directs.

(11) A step taken under sub-regulation (4) of this regulation may be imposed until the non-compliance that gave rise to the step is corrected to the satisfaction of the Designated Authority, taking into account any actions proposed by the ship or the Designated Authority.

21. (1) If a certificate is not produced to an appropriate inspector when required under regulation 20 of these regulations without a lawful or justifiable excuse, or if the Designated Authority has clear grounds to believe that a ship is not in compliance with the requirements of these regulations, the Designated Authority must, for the purpose of ensuring compliance with these regulations, impose one or more of the following control measures:- Control of ships in ports.

(a) inspection of that ship for the purpose of ascertaining compliance with the certification requirements of these regulations and other legislation enforceable in Malta, including, but not limited to, requiring the master to:-

(i) provide the information that the Designated Authority considers relevant to the inspection; and

(ii) demonstrate to the Designated Authority that the master or the relevant crew are familiar with essential ship board security procedures, and any shipboard security procedure is capable of being carried out in a competent manner;

(b) delay of that ship;

(c) detention of that ship;

(d) restriction of the operations of that ship, including movement within the port;

(e) expulsion of that ship from the port if:-

(i) the Designated Authority has reasonable grounds to believe that the ship poses an immediate threat to the security or safety of persons, ships, or other property; and

(ii) there are no other appropriate means for removing that threat.

(2) A ship may be expelled under sub-regulation (1)(e) of this regulation despite the provisions of any other enactment.

(3) A control measure that is imposed under sub-regulation (1) of this regulation:-

(a) must be proportionate, taking into account the guidance given in the Code; and

(b) may additionally or alternatively include other lesser administrative or corrective measures.

(4) A control measure imposed under sub-regulation (1) of this regulation may continue until the non-compliance that gave rise to the control measure is corrected to the satisfaction of the Designated Authority, taking into account actions proposed, if any, by the ship or the Designated Authority.

(5) If a ship is expelled from a port under sub-regulation (1)(e) of this regulation:-

(a) the Designated Authority may require the ship to proceed to a specified location within Maltese territorial waters or port;

(b) the port facility operator must cease providing services to that ship if the Designated Authority directs the port facility operator to cease providing services to that ship;

(c) all possible efforts must be made to avoid a ship being unduly detained or delayed; and

(d) a person may be allowed to leave the ship, or access to the ship must be allowed, for:-

(i) emergency reasons; or

(ii) humanitarian reasons; or

(iii) security purposes.

Inspection of ship security plans.

22. (1) The Designated Authority may request an appropriate inspector to inspect ship security plans and to carry out control measures if:-

(a) it has reasonable grounds to believe that the ship is not in compliance with the requirements of Chapter XI-2 of the Annex to the Convention or the Code;

(b) the only means to verify or to rectify the non-compliance is to review the relevant requirements of the ship security plan; and

(c) consent for the inspection to review the relevant requirements of the ship security plan is obtained from:

(i) the master; or

(ii) the ship's administration, if the State is a party to the Convention.

(2) The Designated Authority may only have access to the specific sections of the plan that relate to the suspected non-compliance.

(3) Despite sub-regulations (1) and (2) of this regulation, the provisions of a ship security plan that are confidential may not be subject to inspection unless agreed to between the Designated Authority and the ship's administration, if the State is a party to the Convention.

(4) Despite sub-regulation (3) of this regulation, if the ship is registered in Malta or if the ship is registered in a State that is not a party to the Convention, the Designated Authority may authorise the inspection.

23. If a ship is detained under these regulations:-

Costs of detention.

(a) the company is liable to pay to the Designated Authority the costs of, and incidental to, the detention and any inspection and audit under these regulations; and

(b) those costs that are, without prejudice to any other remedy, recoverable as a debt due to the Designated Authority in a Court of competent jurisdiction as provided in title VI of the Malta Maritime Authority Act.

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24. If the master withdraws the intention to enter the port, regulations 21(1) and (3) and 22(1) of these regulations do not apply.

Certain provisions do not apply if master withdraws intention to enter port.

25. (1) If a control measure is imposed under regulation 20 of these regulations, or if a step is taken under regulation 22(1)(b) of these regulations, the Designated Authority shall:-

Additional requirements.

(a) advise, in writing, the ship's administration of:-

(i) the control measure imposed or step taken; and

(ii) the reasons for imposing the control measure or taking the step, and

(b) provide written notice, specifying when the control measure was imposed or the step taken, to:-

(i) the International Maritime Organisation; and

(ii) either the recognized security organization that issued a certificate to the ship concerned or if a recognized security organisation did not issue a certificate, the ship's administration.

(2) If a ship is either expelled from a port, or entry into a port is denied in terms of these regulations, the Designated Authority must communicate the appropriate facts to the relevant authorities of:-

(a) the State of the next appropriate port of call, if known; and

(b) any other appropriate coastal State.

(3) The communication must:-

(a) take into account any relevant guidelines promulgated by the International Maritime Organisation; and

(b) be secure and confidential.

Duties of port facility operators.

26 (1) A port facility operator must:-

(a) act on the security level specified by the Designated Authority;

(b) apply security measures and procedures in a manner that minimises interference with, or delay to, passengers, ships, the personnel of ships, visitors, goods, and services;

(c) appoint port facility security officers in accordance with the provisions of these regulations; and

(d) comply with any requirements specified in these regulations for the security level specified for that port facility or class of port facility.

(2) A port facility operator required to have a port facility security plan must give to the Designated Authority, and each port service provider conducting operations within the port facility:-

- (a) name of the port facility operator;
- (b) contact details for the port facility operator;
- (c) name of location of the port facility;
- (d) name of the port in which the facility is located;
- (e) name or position of the person who is to be the port facility security officer for the facility;
- (f) a single 24-hour fixed-line or mobile telephone number for the port facility security officer;
- (g) the measures to be used by the port facility operator to inform persons of the location of any port security areas established within the boundaries of the port facility; and
- (h) the measures to confirm the identity of persons who are authorised to have access to the port facility, to ships moored at the facility and to any port security areas established within the boundaries of the port facility.

(3) A port facility operator required to have a port facility security plan must also give to the Designated Authority details of the boundaries of the facility.

(4) The port facility security officer and the ship security officers must liaise and co-ordinate appropriate actions particularly when the:-

- (a) port facility security officer is advised that a ship is encountering difficulties in:-
 - (i) complying with the requirements to these regulations; or
 - (ii) implementing the appropriate security measures and procedures specified in the ship security plan; or
 - (iii) in the case of security level 3, following any security measures; and

(b) ship has a higher security level than that of the port facility.

(5) If a ship has a higher security level than that of the port facility, the port facility security officer must report the matter to the Designated Authority.

Port facility security officers.

27. (1) Before requesting the Designated Authority to approve a port facility security plan, a port facility operator must designate, in writing, a person as the port facility security officer for the port facility.

(2) A port facility security officer may be designated by name or by reference to a position.

(3) The duties and responsibilities of a port facility security officer include:-

(a) facilitating the development, implementation, revision and maintenance of the port facility security plan for the port facility operator;

(b) liaising with ship, company, port, port service provider and other port facility security officers; and

(c) performing:-

(i) the duties and responsibilities in terms of Part A of the Code; and

(ii) any additional duties and responsibilities set out in the port facility security plan or by the Designated Authority.

(4) A port facility operator must ensure that a port facility security officer assigned:-

(a) has the knowledge and ability to perform the security duties;

(b) is given the training set out in the port facility security plan;

(c) is a suitable person to access and handle security information; and

(d) has the authority to act on instructions received from the Designated Authority.

28. (1) The port facility operator must carry out a port facility security assessment of each port facility within its control.

(2) The Designated Authority may authorize a recognised security organisation to carry out a port facility security assessment.

(3) If a port facility security assessment is carried out by a recognised security organisation, the Designated Authority:-

(a) must review it for compliance with sub-regulation (5) of this regulation; and

(b) if satisfied that it complies with sub-regulation (5) of this regulation, may approve the assessment.

(4) A port facility security assessment must:-

(a) be periodically reviewed and updated, taking into account changing threats or minor changes in the port facility; and

(b) if major changes take place to the port facility, be reviewed and updated as soon as practicable:

Provided that the periodic review of the port facility security assessment shall be carried out at the latest five years after the assessments were carried out or last reviewed.

(5) A security assessment for a port facility security plan must include the following matters:-

(a) the date when the assessment was completed or reviewed;

(b) the scope of the assessment, including assets, infrastructure and operations assessed;

(c) a summary of how the assessment was conducted, including details of the risk management process adopted;

(d) the skills and experience of the key persons who completed or participated in the assessment;

(e) a statement outlining the risk context or threat situation for the port facility;

(f) identification and evaluation of important assets, infrastructure and operations that need to be protected;

(g) identification of possible risks or threats to assets, infrastructure and operations, and the likelihood and consequences of their occurrence;

(h) identification of existing security measures, procedures and operations;

(i) identification of weaknesses, including human factors, in the infrastructure, policies and procedures;

(j) identification, selection and prioritization of possible risk treatments (for example, counter-measures and procedural changes that need to be implemented) and their effectiveness in reducing risk levels and vulnerabilities.

(6) A security assessment for a port facility operator's operation must consider:-

(a) the types of ships, and the types of cargoes transported by ships, served by the port facility;

(b) any special risks or threats associated with such ships and cargoes; and

(c) the elements identified in paragraphs 15.3 and 15.4 in Part B of the Code.

(7) A port facility security assessment may cover more than one port facility if:-

(a) the operator, location, operation, equipment, and design of those port facilities are similar; and

(b) the Designated Authority agrees.

(8) When a port facility security assessment is completed, the person carrying out the port facility security assessment must prepare a report for the Designated Authority that consists of:-

(a) a summary of how the assessment was conducted;

(b) a description of each vulnerability found during the assessment; and

(c) a description of counter measures that could be used to address each vulnerability.

(9) The report and the security assessment must be protected from unauthorised access or disclosure.

29. (1) A port facility operator must:-

Port facility security plans.

(a) develop, implement, and maintain a port facility security plan based on the port facility security assessment of that port facility; and

(b) update that port facility security plan as required by a review of that plan.

(2) A recognized security organisation may prepare the port facility security plan for a port facility.

(3) A port facility security plan or amendments to a previously approved port facility security plan must be approved by the Authority before effect may be given to that plan or amendments to that plan.

(4) A port facility security plan must set out the requirements of Part A and Part B of the Code in respect of port facility security plans, which among other include:-

(a) the security organization of the port facility;

(b) a schedule of security plan audits by internal and external auditors;

(c) the circumstances, in addition to the occurrence of a security incident, following which a security plan review must be conducted;

(d) the procedures for conducting a security plan audit, including a process for selecting auditors who are independent of the matters being audited;

(e) the procedures for conducting a security plan review, including a process for consultation during the review;

(f) the knowledge, skills and other requirements for the port facility security officer;

(g) the training or qualifications that satisfy the requirements referred to in paragraph (a) above;

(h) the training that must be given to the port facility security officer;

(i) measures to prevent unauthorised carriage or possession of weapons or prohibited items in the facility or on board ships being loaded or unloaded at the facility;

(j) measures to prevent unauthorised access to the port facility, to ships moored at the facility and to any port security areas established within the boundaries of the port facility;

(k) procedures for responding to security threats or breaches of security, including procedures for maintaining critical operations in the port facility or ship/port interface;

(l) procedures for responding to any security directions given by the Designated Authority;

(m) procedures for evacuation of the port facility in case of security threats or breaches of security;

(n) procedures for drills and exercises associated with the plan;

(o) procedures for interfacing with ship security activities;

(p) procedures for modifying the plan to correct deficiencies or to update the plan to take into account changes to the port facility;

(q) procedures for reporting occurrences which threaten the security of the port facility;

(r) measures to ensure the security of the information contained in the plan;

(s) measures to ensure security of cargo and of cargo handling equipment at the facility;

(t) procedures in case the ship security alert system of a ship is activated while in the security regulated port;

(u) procedures for facilitating:-

(i) shore leave or relief of crew; and

(ii) access by visitors, including representatives of seafarers' welfare and of labour organisations;

(v) a map clearly showing:-

(i) the boundaries of the port facility; and

(ii) the location of any port security area established, or that the operator wishes to be established or changed, within the area covered by the plan; and

(w) the intervals at which drills shall be carried out to ensure the effective implementation of the port security plan.

(5) A port facility security plan must identify, by reference to their positions, port facility personnel with, or who have been assigned, security duties and responsibilities in addition to those of the port facility security officer.

(6) The security duties and responsibilities of personnel so identified must be set out in the plan, together with:-

(a) the knowledge, skills and other requirements for the security-related aspects of their positions;

(b) the training or qualifications that satisfy the requirements referred to in paragraph (a); and

(c) the training that must be given to such personnel.

(7) In determining appropriate measures under this regulation, the port facility operator must have regard to the special risks of threats associated with the types of ships, and the types of cargoes transported by ships, regularly served by the port facility.

(8) A port facility security plan must set out, for the purpose of coordinating security-related activities, a mechanism for consultation:-

(a) between the port facility operator and the Designated Authority;

(b) between the port facility operator and each port service provider conducting operations within the port facility, and any other stakeholder, who may be affected by the implementation of the plan; and

(c) between the port facility operator and its employees, or their representatives, as regards security measures and procedures to be implemented.

(9) A port facility security plan must set out, in relation to maritime security level 1:-

- (a) the security measures, identified in the security assessment for the operation, for implementation at that level;
- (b) the measures that have been implemented;
- (c) a schedule for implementing the measures that have not been implemented; and
- (d) any interim measures that will be implemented until the measures referred to in paragraph (c) are fully implemented.

(10) A port facility security plan must set out, in relation to maritime security levels 2 and 3, the additional security measures that the operator will implement if the Designated Authority declares that maritime security level 2 or 3 is in force for the port.

(11) A port facility security plan must provide for:-

- (a) the circumstances in which the operator will request a declaration of security with a ship;
- (b) the procedures for negotiating the security measures and responsibilities of the operator and of the ship in those circumstances; and
- (c) how security measures identified in a declaration will be implemented to ensure compliance by the operator and the ship with their security plans and with the declaration.

(12) If a port facility operator wishes the Designated Authority to establish a port security area, the port facility security plan must set out:-

- (a) the purpose for the proposed establishment of the port security area;
- (b) the boundaries of the port security area;
- (c) if applicable, the period when, or the circumstances in which, the port security area is in force;
- (d) the security measures and procedures to be taken to control access into the port security area by people, vehicles or things, including measures relating to the entry, parking, loading

and unloading of vehicles, and the movement and storage of cargo, stores and baggage;

(e) steps to be taken to inform people that a port security area is in force and that entry into that area without authority is an offence; and

(f) the name or position of the person or persons responsible for the security measures, procedures or steps referred to in paragraphs (d) and (e).

(13) The port facility security plan may be combined with, or be part of, the port security plan or any other port emergency plan.

(14) The port facility security plan may be kept in electronic format. In such case, it shall be protected by procedures aimed at preventing its unauthorised deletion, destruction or amendments.

(15) A port facility operator must ensure that the security plan is protected against unauthorised access, amendment and disclosure.

30. The Designated Authority must approve a port facility security plan, or its amendments, if it:-

Port facility security plan approval.

(a) is consistent with:

(i) the purposes of these regulations; and

(ii) the security assessment for that port facility; and

(b) complies with the:

(i) requirements of these regulations; and

(ii) requirements prescribed by the Designated Authority from time to time.

31. (1) An amendment to an approved port facility security plan, or a change to any security equipment specified in an approved plan:-

Amendments to approved port facility security plans.

(a) must be at least as effective as those measures prescribed in the relative sections of Chapter XI-2 of the Annex to the Convention and the provisions of these regulations; and

(b) may not be implemented unless the amendment or change is given written approval by the Designated Authority.

(2) The written approval must be:-

(a) kept at the port facility; and

(b) presented when required by the Designated Authority.

(3) If written approval is given for a temporary amendment to an approved port facility security plan or for a temporary change to any security equipment specified in an approved plan, once the original approved measures or equipment are reinstated, retention of the written approval for the temporary amendment or temporary change is not longer required.

Review of decision not to approve port facility security plans.

32. (1) If the Designated Authority decides not to approve a port facility security plan, or an amendment to a previously approved port facility security plan, the company may request the Designated Authority to review its decision.

(2) If the Designated Authority receives a request to review its decision, the Designated Authority must carry out the review and report the results of the review to the requesting company within 15 working days of the date on which the Designated Authority received the request.

Port service provider security officers.

33. (1) Before requesting the Designated Authority to approve a security plan, a port service provider must designate, in writing, a person as the Port Service Provider Security Officer.

(2) A Port Service Provider Security Officer may be designated by name or by reference to a position.

(3) The duties and responsibilities of a Port Service Provider Security Officer include:-

(a) conducting an initial security survey of the activities of the port service provider and facilitating the completion of the security assessment for the provider's security plan;

(b) ensuring the development and maintenance of the security plan for the port service provider;

(c) implementing the security plan;

(d) undertaking regular security inspections of the area or ship under the control of the port service provider to ensure the effectiveness and adequacy of security measures;

(e) recommending and incorporating modifications to the security plan in order to:

(i) correct deficiencies in the plan; (ii) or update the plan to take into account changes to the port service provider;

(f) enhancing security awareness and vigilance of the port service provider's personnel;

(g) ensuring that standards for personnel with, or who have been assigned, with security duties and responsibilities are met and that adequate training is provided to such personnel;

(h) reporting to the relevant authorities, and maintaining records of, occurrences which threaten the security of the port service provider;

(i) liaising with ship, port, port facility and other port service provider security officers;

(j) coordinating with security, police, fire, ambulance, medical, search and rescue services, as appropriate;

(k) ensuring that security equipment is properly operated, inspected, tested, calibrated and maintained; and

(l) when requested by a ship security officer, assisting in confirming the identity of persons intending to board a ship.

(4) A port service provider must ensure that a Port Service Provider Security Officer:-

(a) has the knowledge and ability to perform the duties of a Port Service Provider Security Officer;

(b) is given the training set out in the security plan for the port service provider;

(c) is a suitable person to access and handle security information; and

(d) has the authority to act on instructions received from the Designated Authority.

Port service provider to give information.

34. A port service provider required to have a security plan must give to the Designated Authority and to each relevant port facility operator conducting operations within the port:-

(a) contact details for the port service provider security officer;

(b) the boundaries of the area under the control of the port service provider;

(c) details of the vessels operated by the provider including the name, identification number, type, date, port of registry, and construction year of each vessel;

(d) the measures to be used by the port service provider to inform persons of the location of any port security zones established within the boundaries of the land under the control of the port service provider; and

(e) the measures to confirm the identity of persons who are authorised to have access to the land under the control of the port service provider, to any port security area established within the boundaries of that land and to vessels operated by the provider.

Consultation with Maritime Security Committee.

35. Before approving any port facility security assessment or plan and any amendments thereto, the Designated Authority may consult with the Maritime Security Committee.

Designation of port security areas.

36. (1) The Designated Authority may designate any area within a port facility, or any other area in a port as a port security area.(2) Any designation under sub-regulation (1) of this regulation may be revoked, in whole or in part, or amended by the Designated Authority as the case may be, by a notice in the Gazette.

Restrictions with respect to port security areas.

37. (1) No person, other than an authorised person or a person on official duties acting in accordance with sub-regulation (7) of this regulation, may enter or remain in a port security area unless authorised by the Designated Authority or the port facility operator.

(2) Every person in a port security area must, on the request of an authorised person:

(a) state his or her name and address;

(b) state the purpose of his or her presence in the port security area, and his or her authority to enter it; and(c) produce satisfactory evidence of the correctness of his or her stated name.

(3) If a person fails or refuses to provide an authorised person with satisfactory evidence of his or her name when requested by the authorised person, or if a person fails to satisfy the authorised person that he or she is authorised to be there, the authorised person may order that person to leave the port security area.

(4) An authorised person, and any person whom he or she calls to his or her assistance, may use any force that is reasonably necessary to remove from any port security area any person who fails or refuses immediately to leave the port security area after having been ordered by an authorised person to do so under sub-regulation (3) of this regulation.

(5) A person who refuses to comply with sub-regulation (2) or sub-regulation (3) of this regulation, and, after having been warned that he or she commits an offence, persists in its commission, may be forcibly detained by an authorised person, and in that case he or she must, as soon as may be practicable, be delivered to a member of the police:

Provided that such powers shall be exercised solely if in the opinion of the authorised person they are absolutely necessary for the authorised person to take the detained person to the nearest Police Station.

(6) A passenger or crew member embarking or disembarking directly through gateways or thoroughfares in a port facility approved for that purpose by the port facility operator is deemed to be authorised by the Designated Authority to pass through any port security area forming part of those gateways or thoroughfares.

(7) A person on official duties acting under a statutory power to enter an area to carry out his or her statutory functions or duties:-
 (a) may enter a port security area; and (b) if requested by an authorised person, must present his or her warrant or certificate or proof of employment to the authorised person.

38. (1) The Minister may, if necessary to improve or enhance maritime security to enable Malta to be part of a concerted international response to a threat to maritime security or if it is in the national interest, direct in writing:-

Powers and duties of Minister to require screening and searching.

(a) to screen:-

(i) any person boarding a ship;

(ii) any thing to be carried by a ship;

(iii) any thing in a port security area; and

(iv) any person including that person's personal effects or vehicle entering, or within, a port security area; and

(b) if necessary, to undertake reasonable searches of:-

(i) any person boarding a ship; or

(ii) any thing to be carried by a ship; or

(iii) any thing in a port security area; or

(iv) any person including that person's personal effects or vehicle entering, or within, a port security area; or

(v) any ship or class of ship; or

(vi) any port facility or class of port facility.

(2) The written notice must specify:-

(a) which of the screenings under sub-regulation (1)(a) of this regulation and which of the searches under sub-regulation (1)(b) of this regulation are part of the Minister's directive;

(b) the permitted extent of those screenings and searches; and

(c) the duration of the direction.

(3) Before giving a direction under sub-regulation (1) of this regulation, the Minister must, to determine whether the direction is necessary to improve or enhance maritime security to enable Malta to be part of a concerted international response to a threat to maritime security or whether it is in the national interest, consult:-

(a) the Designated Authority;

(b) the Maritime Security Committee; and

(c) as the Minister in each case considers appropriate, representative groups in the maritime industry, government departments and entities.

39. (1) The Designated Authority may, if it believes on reasonable grounds that there is a risk of a security incident occurring, direct:-

Powers and duties of the Authority to require screening and searching.

- (a) to screen:-
 - (i) any person boarding a ship;
 - (ii) any thing to be carried by a ship;
 - (iii) any thing in a port security area; and
 - (iv) any person including that person's personal effects or vehicle entering, or within, a port security area; and
- (b) if necessary, to undertake reasonable searches of:-
 - (i) any person boarding a ship; or
 - (ii) any thing to be carried by a ship; or
 - (iii) any thing in a port security area; or
 - (iv) any person including that person's personal effects or vehicle entering, or within, a port security area; or
 - (v) any ship or class of ship; or
 - (vi) any port facility or class of port facility.

(2) The written notice must specify:-

- (a) which of the screenings under sub-regulation (1)(a) of this regulation and which of the searches under sub-regulation (1)(b) of this regulation are part of the Authority's directive;
- (b) the permitted extent of those screenings and searches; and
- (c) the duration of the direction.

(3) Before giving a directive under sub-regulation (1) of this regulation, the Designated Authority must, to determine whether the directive is necessary to meet the risk of a security incident, consult, as the Designated Authority in each case considers appropriate:

(i) the Maritime Security Committee; and(ii) representative groups in the maritime industry, government departments, and entities.

(4) If a search is conducted under a directive issued according to this regulation, by an authorised person who is not a member of the police, that authorised person may request to be accompanied by a member of the police.

Revocation or extension of a direction.

40. The Minister and the Designated Authority may by a written notice revoke or extend a directive at any time.

Taking weapons on to ships or into port security areas.

41. (1) A person commits an offence and is liable, on conviction, to the punishments contemplated in articles 77, 78 and 80 of the Malta Maritime Authority Act, if, without lawful authority or reasonable excuse, or without the written permission of the ship security officer (with respect to boarding a ship) or the port facility security officer (with respect to entering a port security area), intentionally takes, or attempts to take, on board a ship or into a port security area:-

(a) any firearm, or any other dangerous or offensive weapon or instrument of any kind; or

(b) any ammunition; or

(c) an explosive, incendiary, biological, or chemical substance or device, or any other injurious substance or device of any kind, that could be used to endanger the safety of:-

(i) the ship; or

(ii) persons on board the ship; or

(iii) the port security area; or

(iv) persons in the port security area.

(2) A person who has obtained the written permission of a ship security officer or a port facility security officer must, upon the request of an authorised person, present the written permission to that authorised person.

(3) To avoid doubt, a passenger or crew member may take an item covered by sub-regulation (1) on board a ship without the written permission of the port facility security officer if that passenger or crew member has obtained the written permission of that ship's ship security officer.

(4) For the purposes of this regulation, firearm means any gun, rifle, or pistol, whether acting by force of explosives or not; and includes any gun, rifle, or pistol that:-

(a) is not capable of discharging any shot, bullet, or other missile, but that by its completion or by the replacement of any component part or parts or by the correction or repair of any defect or defects, would be so capable; or

(b) is dismantled; or

(c) is an imitation or replica:

Provided that a flare or other incendiary safety device is not considered as a weapon if it is carried on board a ship as part of the ship's safety or signaling equipment.

(5) This regulation is without prejudice to the powers and obligations laid down in articles 237 and 238 of the Code of Police Laws. Cap. 10.

42. (1) An authorised person and any person identified in a port facility security plan may, if he believes on reasonable grounds that there is a risk of a security incident occurring:- Screening and searching powers.

(a) screen, using a detector, an animal, or a mechanical or electronic device or similar mechanism:-

(i) any person boarding a ship;

(ii) any thing to be carried by a ship;(iii) any thing in a port security area; and

(iv) any person (including that person's personal effects) or vehicle entering, or within, a port security area;

(b) if necessary, undertake reasonable searches of any:-

(i) any person boarding a ship;

(ii) any thing to be carried by a ship;

(iii) any thing in a port security area;

(iv) any person (including that person's personal effects) or vehicle entering, or within, a port security area;

(v) any ship or class of ship; and

(vi) any port facility or class of port facility specified under these regulations.

(2) A person exercising the power to screen or search under sub-regulation (1) of this regulation, must, before the screening or search is conducted, and on any subsequent request:-

(a) provide evidence of his or her identity to the person to be screened or searched; and

(b) inform the person to be screened or searched that the screening or search is authorised under this regulation.

(3) To avoid doubt, things, personal effects, and vehicles may be screened or searched without consent if they are unattended.

(4) Notwithstanding sub-regulations (1)(a)(ii) and (b)(ii) of this regulation, goods subject to the control of Customs may not be screened or searched without the authorisation of the Comptroller of Customs.

(5) Sub-regulation (4) of this regulation does not apply if the Designated Authority has specified that security level 3 applies to the port security area where the screening or searching is to be done.

Power to seize and detain items.

43. (1) If a person authorised to screen or search detects an item and has reasonable grounds to believe that such item may not lawfully be taken on board a ship or into a port security area, that person may seize such item for the purpose of determining whether the item may lawfully be taken on board a ship or into a port security area.

(2) If an item is seized under sub-regulation (1) of this regulation, such person shall:-

(a) make an inventory of the item; and

(b) make available to the owner or the person from whom the item was seized a copy of the inventory.

(3) If it is determined that the item may lawfully be taken on board a ship or into a port security area, as far as practicable, the item shall be returned to the person from whom the item was seized.

(4) If it is determined that the item may not lawfully be taken on board a ship or into a port security area, the person from whom the item was seized shall arrange for the item to be:-

- (a) taken off the ship; or
- (b) taken out of the port security area; or (c) taken off the ship and taken out of the port security area.

(5) Notwithstanding sub-regulation (4) of this regulation:-

(a) if there is reasonable grounds to believe that the seized item poses and imminent risk to safety, the authorised person shall:-

- (i) destroy or otherwise dispose of the item; or
- (ii) deliver the item to the police;

(b) if the authorised person has reasonable grounds to believe that the seized item may not be lawfully possessed, the authorised person shall deliver the item to the police.

44. (1) If a person refuses to consent to the screening or searching of his or her person or baggage, that person may be required to leave the ship or port security area or both.

Persons who refuse to consent to be screened or searched.

(2) If a person required to leave refuses to leave, an authorised person, and any one asked to assist him, may use any force that is reasonably necessary to remove that person.

(3) A person who refuses to leave as required under sub-regulation (1) of this regulation and, after being warned that he or she commits an offence by not leaving, persists in its commission:-

- (a) may be forcibly detained by an authorised person; and
- (b) if detained, must be delivered to a member of the police as soon as practicable:

Provided that these powers shall be exercised solely if in the opinion of the authorised person they are absolutely necessary for the authorised person to take the detained person to the nearest Police Station.

(4) If the person who refuses to consent is a passenger or a crew member, a company or master may refuse to allow that passenger or crew member to board that company's ship.

(5) A company or master who refuses to carry a passenger who refuses consent is not liable to any civil proceedings, other than a

proceeding in respect of any right that the passenger may have for the recovery of the fare or part of the fare.

Search of persons refusing consent to be searched.

45. A member of the police may, without a warrant, search a person and that person's baggage, and may detain that person for the purposes of that search, and may take possession of any item which may not be lawfully taken on-board a vessel or into a port security area found in the course of that search, if:-

(a) a company or master refuses to carry a person who has refused to consent to the searching of his or her person or baggage; and

(b) the member of the police has reasonable grounds to suspect that an offence against these regulations has been, is being, or is likely to be, committed, whether by that person or by any other person.

Powers to detain.

46. (1) An authorised person may, without a warrant, detain any person in, or in the vicinity of, a port security area or on board a ship if that authorised person has reasonable grounds to believe that the person has committed, is committing, or about to commit an offence against any of the provisions of these regulations.

(2) A person may, in good faith, assist an authorised person in detaining any person if called upon to do so by that authorised person.

(3) An authorised person who is not a member of the Police and who detains any person under these regulations shall, without delay, inform the Police of the fact of the arrest and shall exercise such power only until it is strictly necessary for the Police to take over custody of the person arrested.

(4) An authorised person exercising the power to detain under sub-regulation (1) of this regulation shall:-

(a) provide evidence of his or her identity to the person to be detained;

(b) inform the person to be detained that such detention is authorised under this regulation; and

(c) if not in uniform, provide evidence that he or she is an authorised person to the person to be detained if that person asks for it.

(5) An authorised person who detains a person and delivers him or her to a member of the police, and any person who at his or her request and in good faith assists an authorised person in doing so, is justified in so detaining and delivering that person and in using any force that may be reasonably necessary in doing so.

(6) Any police officer who exercises his powers to detain a person without a warrant shall only exercise such powers until it is strictly necessary for the police officer to convey the person arrested to a police station and deliver him to a superior officer not below the rank of sergeant.

47. (1) An authorised person while on duty may, at any time, enter a port security area, or any building, vehicle, or place in any part of a port security area, or any ship, for the purpose of exercising and carrying out his or her powers, functions, and duties under these regulations.

Right of access to port security areas and ships.

(2) If the police have taken command of any situation at a port security area, the right of authorised persons to enter any part of the port facility or any ship, building, or place is subject to the limitations that the senior member of the police, not below the rank of inspector, present at the port facility specifies.

(3) If a ship, building, vehicle, or place is not being used for commercial purposes, sub-regulation (1) of this regulation does not apply unless the authorised person believes on reasonable grounds that a person is likely to endanger the port security area or any of its facilities or any person who is in that ship, building, vehicle or place.

(4) Unless otherwise allowed by law, an authorised person may not enter a private building quarters, or a passenger cabin without:-

- (a) a search warrant; or
- (b) the consent of the occupier of that dwelling house, crew quarters, or passenger cabin.

(5) An authorised person exercising the power of entry under sub-regulation (4) of this regulation must, before the entry takes place, and on any subsequent request:-

- (a) provide evidence of his or her identity to the occupier;
- (b) inform the occupier that the entry is authorised under this regulation; and

(c) if not in uniform, provide evidence that he or she is an authorised person to the occupier if the occupier asks for it.

Offences by masters.

48. Any master who fails to comply with any of the provisions of these regulations commits an offence and is liable, upon conviction, to the punishments contemplated in article 78 of the Malta Maritime Authority Act.

Offences by Port Facility Operators.

49. Any port facility operator who fails to comply with these regulations commits an offence, and is liable, upon conviction to a fine (*multa*) not exceeding five thousand liri, and in the case of a continuing offence, to a further fine (*multa*) not exceeding five hundred liri for every day during which the offence continues.

Offences by a body or association of persons.

50. Where an offence under these regulations is committed by a body or other association of persons, such body or association of persons shall, on conviction, be liable to a fine (*multa*) of five thousand liri, and in the case of a continuing offence, to a further fine (*multa*) of five hundred liri for every day during which the offence continues.

Provisions with respect to offences.

51. (1) The provisions of these regulations establishing offences and punishments in respect thereof shall be without prejudice to any liability arising under any other law, and shall not bar the infliction of further punishments contemplated by such other law.

(2) In particular, such provisions referred to in sub-regulation (1) of this regulation shall not affect the application of any higher punishment under any other law.

Exemptions from regulations.

52. (1) The Designated Authority may, if it considers it appropriate and on the conditions that it deems appropriate, exempt any person, ship, or port facility from any requirement specified in these regulations.

(2) The Designated Authority may not grant an exemption under sub-regulation (1) of this regulation unless it is satisfied in the circumstances that:-

(a) the exemption will not breach Malta's international obligations under any maritime convention;

(b) one or more of the following applies:-

(i) the prescribed requirements have been substantially complied with and that further compliance is unnecessary; or

(ii) the action taken or provision made in respect of the matter to which the prescribed requirements relate is as effective or more effective than actual compliance with the prescribed requirements; or

(iii) the prescribed requirements are clearly unreasonably or inappropriate in the particular case; or

(iv) events have occurred that make the prescribed requirements unnecessary or inappropriate in the particular case; and

(c) the risk to safety will not be significantly increased by the granting of the exemption.

53. If the Designated Authority has reasonable cause to believe that a security risk exists that may warrant the extension of these regulations to a ship or port facility, to which these regulations do not apply, to enhance ship or port security, the Authority may:-

Extension of these regulations.

(a) conduct a security assessment of the port facility; or

(b) require a security assessment of the port facility to be carried out.

