

Government Decree on Inspecting Foreign Ships in Finland

(619/2004)

Section 1 — *Scope of application*

This Decree contains provisions on the inspections of foreign ships calling at Finnish ports.

Section 2 — *Definitions*

(1) For the purposes of this Decree:

- 1) *The Conventions* mean the International Convention on Load Lines, 1966 (Finnish Treaty Series 52/1968), the International Convention for the Safety of Life at Sea, 1974 (Finnish Treaty Series 11/1981), the Protocol of 1978 relating to the International Convention for the Prevention of Pollution from Ships, 1973 (Finnish Treaty Series 51/1983), the International Convention on Standards of Training, Certification and Watchkeeping for Seafarers, 1978 (Finnish Treaty Series 22/1984), the Convention on the International Regulations for Preventing Collisions at Sea, 1972 (Finnish Treaty Series 30/1977), the International Convention on Tonnage Measurement of Ships, 1969 (Finnish Treaty Series 31/1982), the Merchant Shipping (Minimum Standards) Convention, 1976 (ILO No 147) (Finnish Treaty Series 54/1979), the Protocol of 1992 to Amend the International Convention on Civil Liability for Oil Pollution Damage, 1969 (Finnish Treaty Series 43/1996), and Protocols and mandatory regulations attached to these Conventions, as amended;
- 2) *More detailed inspection* means an inspection in which the ship, its equipment and crew as a whole or parts thereof are inspected in the circumstances specified in Article 6(3) of the PSC Directive so that the inspection covers the ship's construction, equipment, manning, living and working conditions and compliance with on-board operational procedures; and
- 3) *Sirenac information system* means the information system set up within the framework of the Paris Memorandum of Understanding.

Section 3 — *Applying the Decree on ships*

- (1) This Decree applies to foreign ships referred to in the Conventions that enter Finnish ports or anchor off Finnish ports, and to the crew of such ships.
- (2) This Decree does not apply to fishing vessels, warships, naval auxiliaries, wooden ships of primitive build, government or municipal ships used for non-commercial purposes, or pleasure yachts not engaged in trade.

Section 4 — *Inspection commitment*

The number of ship inspections to be carried out annually by the competent authority shall correspond to at least 25 % of the average annual number of individual ships which entered Finnish ports, calculated on the basis of the three most recent calendar years for which statistics are available.

Section 5 — *Ships selected for inspection*

- (1) Any ship not subject to an expanded inspection with an overall target factor referred to in Annex I of the PSC Directive greater than 50 shall be inspected provided that at least a month has elapsed since the previous inspection of the ship carried out in a port of a State signatory of the Paris Memorandum of Understanding.
- (2) In selecting other ships for inspection, the first ships shall be those listed in Annex I, Part I of the PSC Directive. The ships listed in Annex I, Part II, that shall be considered for priority inspection shall be selected for inspection in descending order based on the value of their target factors in the Sirenac information system.
- (3) Ships that have been inspected by a European Union Member State during the previous six months, shall not be inspected if:
 - 1) they are not listed in Annex I of the PSC Directive;
 - 2) no deficiencies have been reported since the previous inspection;
 - 3) there are no clear grounds for carrying out an inspection; or
 - 4) they do not come under the scope of application of subsection 1.
- (4) The provisions of subsection 3 do not apply to operational controls specifically provided for in the Conventions.

Section 6 — *Examination of documents and determination of the overall condition of the ship*

- (1) The competent authority shall as a minimum examine the documents mentioned in Annex II of the PSC Directive to the extent applicable and check the overall condition of the ship, including the engine room, accommodation and hygienic conditions.
- (2) The competent authority may also examine certificates and other documents that are not referred to in subsection 1 and that, under the Conventions, are required to be carried on board.

Section 7 — *More detailed inspection of the ship*

- (1) Clear grounds for a more detailed inspection of the ship are considered to include the circumstances listed in Annex III of the PSC Directive.
- (2) If it is established that there are material deficiencies in the shipboard living and working conditions, the occupational safety authorities shall be notified.
- (3) The inspection of the ship shall be carried out in accordance with the procedures specified in Annex IV of the PSC Directive.

Section 8 — *Control of the communication skills and language proficiency of the crew*

(1) The competent authority shall ensure that:

- 1) crew members of a passenger ship starting and/or finishing its voyage in a Finnish port are, at all times, capable of effective oral communication relating to safety, particularly with regard to the correct and timely reception and understanding of safety messages and instructions;
- 2) on board passenger ships, personnel designated to assist passengers in emergency situations are readily identifiable and can, by using the language spoken by the passengers, by using elementary English vocabulary, by demonstration, or by means of hand signals, provide enough information, taking into account the languages appropriate to the principal nationalities of passengers carried on a particular route, the extent to which complete safety instructions have been provided to the passengers in their native language and the languages in which emergency announcements may be broadcast during an emergency to convey critical guidance to passengers and to facilitate crew members in assisting passengers;
- 3) the crew members of a tanker are able to communicate with each other in the common working language of the ship; and,
- 4) in cases referred to in paragraphs 1 and 3, crew members are able to communicate adequately with shore-based authorities, either in a common language or in the language of those authorities.

Section 9 — *Procedures to be followed in expanded inspections*

The expanded inspection shall be carried out in accordance with the procedures set out in Annex V, section C of the PSC Directive.

Section 10 — *Mandatory expanded inspections of certain ships*

- (1) A ship of a category mentioned in Annex V, section A of the PSC Directive shall be subject to an expanded inspection if the ship is selected for inspection in accordance with section 5(2).
- (2) If no advance notification referred to in section 11a of the Ship Safety Control Act (370/1995) is submitted for a ship referred to in subsection 1, the ship shall be subject to an expanded inspection at its Finnish port of destination.
- (3) If for a ship referred to in subsections 1 and 2, the overall target factor referred to in Annex I, Part II of the PSC Directive is at least 7, the ship shall be subject to an expanded inspection at the first port it enters 12 months after the previous expanded inspection.

Section 11 — *Procedure in case certain ships cannot be inspected*

- (1) In addition to what is provided in section 11c of the Ship Safety Control Act, the competent authority shall, without delay, inform the Sirenac information system if certain ships that, under section 5(1), shall be subject to a mandatory inspection or, under section 10(3), to a mandatory expanded inspection, cannot be inspected for operational reasons. Such cases shall be notified, at intervals of six months, to the Commission of the

European Communities together with the reasons for not inspecting the ships concerned.

- (2) During any calendar year, such non-inspections shall not exceed 5 % of the average annual number of the individual ships eligible for inspections referred to in subsection 1 calling at Finnish ports; the average annual number is calculated on the basis of the three most recent calendar years for which statistics are available.
- (3) If a ship has been left uninspected in the previous port of a EU Member State in the manner described in subsection 1, it shall be subject to a mandatory inspection or a mandatory expanded inspection, as appropriate, at its next Finnish port of call.

Section 12 — *Consideration of detention criteria*

- (1) When considering detention of a ship, the competent authority shall apply the criteria set out in Annex VI of the PSC Directive.
- (2) If the overall condition of the ship is exceptionally poor and it clearly does not meet the requirements set, the competent authority may suspend the inspection until the shipowner has taken the steps necessary to ensure that the ship complies with the relevant requirements of the Conventions.

Section 13 — *Follow-up to inspections and detentions*

- (1) If the defects or deficiencies referred to in section 14 of the Ship Safety Control Act cannot be rectified at the port of inspection, the competent authority may allow the ship to proceed to the nearest appropriate repair yard available, as chosen by the master and the authorities provided that the conditions determined by the competent authority of the flag State and agreed by the competent authority are complied with. Such conditions shall ensure that the ship can proceed without the risks referred to in section 14 of the Ship Safety Control Act.
- (2) In the circumstances referred to in subsection 1, the competent authority shall notify the competent authority of the State in which the repair yard is situated, the nearest diplomatic representative of the flag State and any other authority as appropriate of all conditions for the voyage, as laid down in Annex 2 of the Paris Memorandum of Understanding.
- (3) The competent authority receiving the notification referred to in subsection 2 shall inform the notifying authority of the action taken.

Section 14 — *Procedures relating to refusal of access to ports*

- (1) The provisions on refusing a ship access to a port in section 14c of the Ship Safety Control Act shall apply immediately after the ship has been authorized to leave the port in which it has been detained for the second or the third time.(2) The refusal of access shall be made in accordance with the procedures set out in Annex XI, section B of the PSC Directive.

Section 15 — *Publication of information*

The Finnish Maritime Administration shall, at least once a month, publish the information listed in Annex VIII, Part I of the PSC Directive on ships that have been detained in Finnish ports or that have been refused access to Finnish ports during the previous month.

Section 16 — *Notifications concerning the ship's class certificate*

The Finnish Maritime Administration shall notify the Commission of the European Communities, other European Union Member States, the ship's flag State and the Secretariat of the Paris Memorandum of Understanding, if it has been established in the port State control inspection that the ship has a valid certificate issued by a classification society even though it does not meet the relevant requirements of the Conventions, or a class certificate, even though it has a defect or a deficiency in matters mentioned in the certificate. However, the notification shall only be submitted if the ship endangers safety or the environment or if there is evidence that the classification society has shown gross negligence. The classification society shall also be notified of the matter in connection with the first inspection.

Section 17 — *Data to be provided in the context of monitoring the implementation of the PSC Directive*

- (1) The Finnish Maritime Administration shall provide the Commission of the European Communities and the Secretariat of the Paris Memorandum of Understanding with the following data for the preceding year by 1 April at the latest:
 - 1) the number of inspectors carrying out port State control in Finland, using the model table in Annex X of the PSC Directive and the mode laid down in the Annex; and
 - 2) the total number of individual ships that entered Finnish ports.
- (2) The Finnish Maritime Administration shall also:
 - 1) every six months, provide the Commission of the European Communities with a list of the movements of individual ships, other than regular ferry services, that entered Finnish ports, containing the IMO numbers and dates of arrival of the ships; or alternatively
 - 2) enter into the Sirenac information system the IMO numbers and dates of arrival of the ships, other than regular ferry services, that daily entered Finnish ports.
- (3) The Finnish Maritime Administration shall provide the Commission of the European Communities with information on changes in regular ferry services.

Section 18 — *Entry into force*

- (1) This Decree enters into force on 1 August, 2004.
- (2) This Decree repeals the Decree on Inspecting Foreign Ships in Finland (325/1997) of 18 April, 1997, as amended.