



REPUBLIC OF CYPRUS
**MINISTRY OF TRANSPORT,
COMMUNICATIONS AND WORKS**



**DEPARTMENT
OF MERCHANT SHIPPING
LEMESOS**

Circular No: 26/2016

9 September 2016

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All Registered Owners, Registered Bareboat Charterers,
Managers and Representatives of ships flying the Cyprus Flag

To all Recognised Organisations

Subject: Measures to Enhance Safety Standards on board ships flying the Cyprus Flag

The Department of Merchant Shipping (DMS) of the Republic of Cyprus is committed to ensuring that all ships flying the Cyprus Flag are fully compliant with all applicable International Convention requirements, European Union legislation and national legislation at all times. Thus, DMS has introduced certain measures which were communicated with Circulars 9/1998 and 29/2006. The implementation of these measures together with other actions taken by DMS has resulted in the substantial enhancement of the safety standards on board ships flying the Cyprus Flag and the significant decrease of identified deficiencies and of course the number of Port State Control (PSC) detentions. Hence, the quality of our fleet has been upgraded significantly and Cyprus is currently on the "White List" of various MOUs.

Based on the contents of the aforesaid Circulars and the experience gained by their implementation, the DMS has decided to introduce amended instructions, attached to this Circular.

The new scheme will commence on the **1st October 2016**. DMS will monitor compliance with these instructions and will act accordingly.

The present Circular replaces Circulars No 9/1998 and No. 29/2006.
The present Circular should be kept on board vessels flying the Cyprus Flag.

Ioannis Efstratiou
Acting Director
Department of Merchant Shipping

- cc:
- **Permanent Secretary, Ministry of Transport Communications and Works**
 - Permanent Secretary, Ministry of Foreign Affairs
 - Maritime Offices of the Department of Merchant Shipping abroad
 - Diplomatic and Consular Missions of the Republic
 - Honorary Consular Officers of the Republic
 - Cyprus Shipping Chamber
 - Cyprus Union of Ship Owners



MEASURES TO ENHANCE SAFETY STANDARDS ON BOARD SHIPS FLYING THE CYPRUS FLAG

1 General

1.1 The present instructions aim at enhancing the control of the flag state over safety standards of ships flying the Cyprus Flag. All terms used are as defined in international conventions for the implementation of which relevant authorizations have been given to Recognized Organizations (RO).

1.2 All communication regarding the implementation of this Circular should be addressed to the Head of the Maritime Safety and Security Division of Department of Merchant Shipping (DMS) at shipcontrol@dms.mcw.gov.cy

2 Change of Flag Surveys/ audits/ verifications/ inspections

2.1 Regardless of whether the Company remains the same as before or a change occurs, no vessel may be registered with any outstanding recommendation. In case a deviation from this policy is required, a relevant request should be made to the DMS for consideration and relevant instructions.

2.2 At the time of the change of flag, the extent of the surveys in respect of Safety Equipment, shall be upgraded to that of a renewal survey. The surveys for the other statutory certificates, unless they fall within the windows (intermediate / periodical / renewal), shall be carried out to the extent of annual surveys. For the certification under SOLAS Chapter IX and the International Safety Management Code (ISM Code), the audit procedure specified in each individual authorization letter issued by this Administration should be followed. For certification under SOLAS Chapter XI-2 and the Code for the Security of Ships and of Port Facilities (ISPS Code) the verification procedure specified in Section A.19.4.2 of the ISPS Code should be followed. For the certification under the Maritime Labour Convention, 2006 (MLC 2006) the certification procedure specified in paragraph 7 of Standard A5.1.3 should be followed.

2.3 Surveys conducted within a three (3) months' time period prior to the date of change of Flag may be credited towards change of Flag with the exception of Safety Equipment survey and Safety Radio survey.

2.4 The statutory survey audit/ verification/ inspection reports for the change of flag surveys/ audits/ verifications/ inspections shall be made available to the DMS the soonest possible.

3 Notification after Detention

3.1 When a ship flying the Cyprus Flag is detained, the master of the ship and or the company managing the ship are obliged immediately to:

1.i. Notify and request the ROs which have issued the affected statutory certificates to perform surveys/ audits/ verifications/ inspections required by the present Circular, and

1.ii. Notify the DMS communicating the following information:

- Full copy of the PSC report (Form A and B);
- Copy of the detention notice; and

- Confirmation that the involved ROs have been notified.
- The schedule for the completion of surveys (if applicable)

3.2 In case a ship flying the Cyprus Flag sails without complying with the above, then upon arrival at the next port of call, a prohibition of sail will be issued until all required surveys/ audits/ verifications/ inspections are completed.

3.3 Furthermore an additional company audit in the scope of an annual one may be requested depending on the safety record of the company in question and the nature of the deficiencies recorded.

3.4 When a ship flying the Cyprus Flag has been released from detention, the master of the ship and or the company managing the ship must immediately to notify the DMS communicating a copy of the release notice and any restrictions imposed to the ship (if any).

4 Actions after Detention

Actions after the 1st detention in a 24 month period

4.1 If a ship is detained once within a period of 24 months the following surveys/ audits/ verifications/ inspections should be performed as appropriate:

- I. If the date of the detention falls within the ± 3 month's window for annual surveys, they must be conducted before the ship sails; **and**
- II. If the date of the detention falls within the window for renewal / periodical / intermediate surveys, they must be conducted to the extent possible, except for safety equipment, radio and I.O.P.P, which must be completed. A time schedule for the completion of surveys at the next convenient port must be set and they shall not be delayed until the end of the window; **or**
- III. If all the detainable deficiencies concern the implementation of the Maritime Labour Convention, 2006 (MLC), an additional intermediate inspection should be conducted by the RO responsible for the issue of the Maritime Labour Certificate, **or**
- IV. If all detainable deficiencies concern the implementation of the Code for the Security of Ships and of Port Facilities (ISPS Code), an additional intermediate verification should be conducted by the RO responsible for the issue of the International Ship Security Certificate (ISSC).

4.1.1 In case the RO clearing the deficiencies and the RO responsible for the issue of the Safety Management Certificate (SMC) are different entities and during the survey/ inspection/ verification it becomes apparent that the Safety Management System (SMS) on board is not properly implemented then the surveyor should notify the ship's RO responsible for the issue of the SMC and the DMS of the findings. In case RO responsible for the issue of the SMC, having assessed the findings, deems that an additional audit is necessary, it shall notify the DMS and proceed as soon as possible to conduct the additional audit of the SMS of the ship and inform the DMS and the RO clearing the deficiencies of the results.

Actions after the 2nd detention in a 24 month period

4.2 If a ship is detained twice within a period of 24 months, in addition to the surveys/ audits/ verifications/ inspections required in case a ship has been detained once within a period of 24 months (as from the date of the last detention counting backwards) an additional shipboard audit

to the extent of an initial one should be performed before the ship sails. Furthermore an additional shore based audit to the extent of an annual one shall be performed not later than 30 days from the date of the detention.

Actions after the 3rd detention in a 24 month period

4.3 If a ship has been detained three times within a period of 24 months (as from the date of the last detention counting backwards), all statutory certificates will be suspended. In order to re-instate the certificates, renewal surveys shall be carried out with no outstanding items or recommendations to the extent possible, and an additional audit to the extent of an initial one shall be performed. Furthermore an additional shore based audit to the extent of an initial one should be performed, not later than 30 days from the date of the detention.

Actions after the 4th detention in a 24 month period

4.4 In case a ship is detained for the fourth time within a period of 24 months (as from the date of the last detention counting backwards), then the vessel will be deleted from the Cyprus Registry and the Document of Compliance (DoC) of the Company issued on behalf of the Republic will be re-examined.

4.5 It should be noted that the DMS may amend any of the above instructions depending on the number and the nature of the identified deficiencies. Additionally, the DMS may participate to any of the above surveys/ audits/ verifications/ inspections or may request for an occasional Flag State survey /audit /inspection/ verification, at owners' expenses.

Outstanding Recommendations

5 In case a ship is burdened with recommendations imposed either by the DMS or PSC, these shall be communicated to the relevant RO and the latter shall ensure that they have been rectified according to the set schedule. Otherwise the RO shall contact the DMS for a decision on the action to be taken.

Postponement of surveys/ audits/ verifications/ inspections related to detentions

6 Applications for postponement or waiving of surveys/ audits/ verifications/ inspections related to detentions will be considered by the DMS only in cases where special circumstances warrant them.

ISM audits by ROs

7 When conducting ISM audits, the ROs should take into consideration all deficiencies revealed in the course of the PSC inspections leading to detentions. The ISM audits should, among other things, aim to identify any specific failures of the SMS which may be attributed as a causal factor to the deficiencies revealed. The ISM audits shall also ensure that appropriate corrective and preventive actions have been taken or a schedule is in place for the implementation of the appropriate corrective and preventive actions.

Reporting Defective Equipment and Accidents

8 Recently, we have observed several cases where PSC inspections have resulted in unnecessary detentions due to failure of the master and or the company to report to the relevant PSC Authorities, in advance, defective equipment or damages usually resulting from a casualty or heavy weather.

8.1 In view of the above, we kindly remind you that Regulation 11(c) of SOLAS Chapter I specifies that *“Whenever an accident occurs to a ship or a defect is discovered, either of which affects the safety of the ship or the efficiency or completeness of its life-saving appliances or other equipment, the master or owner of the ship shall report at the earliest opportunity to the Administration, the nominated surveyor or recognized organization responsible for issuing the relevant certificate, who shall cause investigations to be initiated to determine whether a survey, as required by regulations 7, 8, 9 or 10, is necessary. If the ship is in a port of another Contracting Government, the master or owner shall also report immediately to the appropriate authorities of the port state and the nominated surveyor or recognized organization shall ascertain that such a report has been made.”*

8.2 It is therefore imperative that the master notifies accordingly, before arrival, the relevant PSC Authorities, the relevant RO and the DMS explaining the deficiencies, the circumstances under which these deficiencies occurred and the actions taken for their rectification including a rectification plan (if available at the time of notification). It should be stressed out that some countries (like the United States of America) have specific notification procedures that include notifications for defective equipment or damages. In such cases the masters and companies are urged to strictly follow the notification procedures adopted by these countries.

Disputing a PSC detention

9 In case the master feels that a detention is unjustified, such matter could be initially discussed, calmly and in a professional manner, with the PSC Officer in charge.

9.1 In case the company managing the ship, is of the view that a detention is not justified, the company may decide to appeal the PSC detention. However, it should be noted that initiating an appeal, complaint or review procedure will result to the suspension of a detention.

9.2 Additionally, it should be noted that time limits apply to each procedure (appeal, complaint or review) and that the time limits vary between MOUs and between countries within the same MOU. Details on the procedure to be followed in each case and the applicable time limits can be found from the websites of the relevant MOU. Alternatively, companies may contact DMS for advice.

9.3 The appeal procedure is usually initiated by the company or the ship owner directly to the PSC authority involved requesting re-consideration of the detainable deficiencies. DMS is generally not involved in the formal appeal procedure, but will provide a supporting statement upon request for appeals where there are grounds to believe that the detention is not justified.

9.4 Masters and companies are advised to consider Appendix 2 of IMO Assembly Resolution A.1052(27) entitled “Guidelines for the Detention of Ships” which contains a list of deficiencies that are considered to be of such a serious nature that they may warrant the detention when they consider to make an appeal against a PSC detention.

9.5 Where the PSC authority’s appeal procedure requires the appeal to be made by the Flag State, the DMS will appeal only upon written request by the company or the ship owner where the detention is considered unjustified or inappropriate in the circumstances.

Complaints

10 In cases where the PSC authorities do not provide for an administrative hierarchical recourse and no appeal is made, the Company may submit a written complaint to the DMS. If the objective evidence supporting the complaint is sufficient to indicate that the detention is

unjustified or inappropriate, then the DMS will approach the PSC authority requesting them to reconsider their position.

10.1 The DMS has been made aware of several allegations of instances where PSC Officers allegedly have misused their authority for financial gain. Allegations of improper conduct by any PSC Officers may be reported to the DMS for further advice and consideration. The reports should contain full details of the allegation and any supporting information. All reports regarding improper conduct by any PSC Officers will be treated in confidence.