

*Technical Regulation no. 9 of 28 November 2002 issued by the Danish Maritime Authority*

## **Technical Regulation on port State control of shipping<sup>1)</sup>**

In pursuance of Section 1 (3), Section 3, Section 6 (4), Section 16 (3), Section 17 (5), Section 20 and Section 32 of the Act on Safety at Sea, cf. consolidated Act no. 627 of 26 July 2002, and by authority of the Minister of Economic and Business Affairs, the following provisions are laid down:

### *Application*

**Section 1.** This technical regulation shall apply to any ship and its crew calling at a port or at an off-shore installation in Denmark or anchored off such a port or such an installation.

*Subsection 2.* This technical regulation shall also apply to any Danish ship and its crew calling at a port or at an off-shore installation of another EU Member State or anchored off such a port or such an installation.

*Subsection 3.* Notwithstanding the provisions of subsections 1 and 2, this technical regulation shall not apply to fishing vessels, ships of war, naval auxiliaries, wooden ships of primitive build, government ships used for non-commercial purposes and pleasure yachts not engaged in trade.

*Subsection 4.* This technical regulation shall also apply to Danish ports serving ships covered by it.

### *Administrative provisions*

**Section 2.** The following directives shall apply in connection with the Danish Maritime Authority's port State control of foreign ships covered by this technical regulation:

- 1) Council Directive 95/21/EC on port State control of shipping, as amended by Council Directive 98/25/EC, Commission Directive 98/42/EC, Commission Directive 99/97/EC and Directive of the European Parliament and the Council 2001/106/EC of 19 December 2001,
- 2) Commission Directive 96/40/EC of 25 June 1996 establishing a common model for an identity card for inspectors carrying out port State control, as well as
- 3) Directive of the European Parliament and of the Council 1999/95/EC of 13 December 1999 concerning the enforcement of provisions in respect of seafarers' hours of work on board ships calling at Community ports.

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1 This technical regulation contains provisions implementing Council Directive 95/21/EC on port State control of shipping, as amended by Council Directive 98/25/EC, Commission Directive 98/42/EC, Commission Directive 99/97/EC and Directive of the European Parliament and the Council 2001/106/EC of 19 December 2001, Commission Directive 96/40/EC of 25 June 1996 establishing a common model for an identity card for inspectors carrying out port State control as well as Directive of the European Parliament and the Council 1999/95/EC of 13 December 1999 concerning the enforcement of provisions in respect of seafarers' hours of work on board ships calling at Community ports.

*Subsection 2.* A consolidated version of the provisions of the directives in force has been printed as an annex to this technical regulation.

#### *Ship owner and master*

**Section 3.** The ship owner or master of a ship<sup>2</sup> to which article 7 (1) of Council Directive 95/21/EC, as amended, applies shall ensure that all the information listed in Annex V, section B, is communicated to the authority of the Member State of each port visited after a period of 12 months since the last expanded inspection.

*Subsection 2.* This information shall be provided at least three days before the expected time of arrival in the port or before leaving the previous port if the voyage is expected to take fewer than three days. If the ship changes its port of destination after having left the previous port, the information shall be communicated immediately to the authority of the new port of destination.

*Subsection 3.* Foreign ships calling at Danish ports shall communicate such information to the Danish Maritime Authority.

#### *Port authorities*

**Section 4.** The port authorities shall, within the normal working hours of the port, inform the Danish Maritime Authority of the IMO number and time of arrival of all ships, except for ferries operating regular services, covered by this technical regulation calling at their ports. Finally, the port authorities shall submit a list to the Danish Maritime Authority of all the ferries operating regular services to and from their ports no later than six months after the entry into force of this technical regulation and subsequently whenever changes are made.

*Subsection 2.* If port authorities, when exercising their normal duties, learn that a ship within their port has deficiencies which may prejudice the safety of the ship or possess an unreasonable threat of harm to the marine environment, such authority shall immediately inform the Danish Maritime Authority hereof.

#### *Penalty and entry into force clause, etc.*

**Section 5.** Ship owners or masters of ships covered by this technical regulation contravening section 3 shall be punishable by fine or imprisonment for a term not exceeding one year.

*Subsection 2.* The penalty may be increased to imprisonment for a term not exceeding two years if

- 1) the violation has resulted in damage to life or health, or risk of such damage,

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2 Gas and chemical tankers that are more than ten years old, bulk carriers that are more than 12 years old, oil tankers with a gross tonnage of 3,000 tonnes that are more than 15 years old, and passenger ships without ro-ro decks that are more than 15 years old.

- 2) an injunction or order has previously been issued in connection with the same or equivalent situations, or
- 3) the violation has given or has been intended to give financial benefits to the transgressor or others.

*Subsection 3.* It shall be considered especially aggravating circumstances if the violation has resulted in damage to the life or health or risk of such damage to young persons below the age of 18, cf. subsection 2 (1).

*Subsection 4.* If the financial benefit achieved is not confiscated, special consideration shall be given to the size of the achieved or intended financial benefit when determining the size of the fine, including supplementary fine.

*Subsection 5.* Companies etc. (legal personalities) may be liable to punishment according to the provisions of Chapter 5 of the penal code.

**Section 6.** This technical regulation shall enter into force on 1 January 2003.

*The Danish Maritime Authority, 28 November 2002*

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