



STATUTORY INSTRUMENTS.

**S.I. No. 519 of 2014**



EUROPEAN UNION (PORT STATE CONTROL) (AMENDMENT)  
REGULATIONS 2014

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I, PASCHAL DONOHOE, Minister for Transport, Tourism and Sport, in exercise of the powers conferred on me by section 3 of the European Communities Act 1972 (No. 27 of 1972) and for the purpose of giving effect to Directive 2013/38/EU of the European Parliament and of the Council of 12 August 2013<sup>1</sup>, hereby make the following regulations:

1. (1) These Regulations may be cited as the European Union (Port State Control) (Amendment) Regulations 2014.

(2) These Regulations come into operation on 21 November 2014.

2. The European Communities (Port State Control) Regulations 2010 (S.I. No. 656 of 2010) are amended—

(a) in Regulation 2(1)—

(i) by substituting for the definition of “Port State Control Directive” the following:

“ ‘Port State Control Directive’ means Directive 2009/16/EC of the European Parliament and of the Council of 23 April 2009<sup>2</sup> as amended by Directive 2013/38/EU of the European Parliament and of the Council of 12 August 2013<sup>1</sup>;”,

(ii) by substituting for the definition of “Minister” the following:

“ ‘Minister’ means Minister for Transport, Tourism and Sport;

‘MLC 2006’ means Maritime Labour Convention 2006, adopted by the International Labour Organisation on 23 February 2006;”,

and

(iii) by inserting after the definition of “SafeSeasIreland” the following:

“ ‘seafarer’ has the meaning assigned to it in the MLC 2006;”,

<sup>1</sup>OJ No. L 218, 14.8.2013, p. 1

<sup>2</sup>OJ No. L 131, 28.5.2009, p. 57

*Notice of the making of this Statutory Instrument was published in  
“Iris Oifigiúil” of 21st November, 2014.*

(b) by substituting for Regulation 14 the following:

*“Report of inspection to ship’s master*

14. (1) On completion of an initial inspection, a more detailed inspection or an expanded inspection of a ship, an inspector shall draw up a report in accordance with Annex IX and shall furnish a copy to the ship’s master.

(2) Where, following a more detailed inspection, the living and working conditions on the ship are found not to conform to the requirements of the MLC 2006, an inspector shall forthwith bring the deficiencies to the attention of the master of the ship, with required deadlines for their rectification.

(3) In the event that an inspector considers such deficiencies to be significant, or if they relate to a possible complaint under point 19 of Part A of Annex V, the inspector shall also bring the deficiencies to the attention of the appropriate seafarers’ and shipowners’ organisations in the State, and may:

(a) notify a representative of the flag State;

(b) provide the competent authorities of the next port of call with the relevant information.

(4) In respect of matters concerning MLC 2006, the competent authority may transmit a copy of the inspector’s report, to be accompanied by any reply received from the competent authorities of the flag State, to the Director-General of the International Labour Office with a view to such action as may be considered appropriate and expedient in order to ensure that a record is kept of such information and that it is brought to the attention of parties who might be interested in availing themselves of relevant recourse procedures.”,

(c) in Regulation 15, by substituting for paragraph (4) the following:

“(4) The identity of any person making a complaint to the competent authority shall not be revealed to the master or the owner of the ship concerned and an inspector shall take appropriate steps to safeguard the confidentiality of complaints made by seafarers, including ensuring confidentiality during any interviews of seafarers.”,

(d) by inserting after Regulation 15 the following:

*“Onshore MLC 2006 complaint-handling procedures*

15A. (1) A complaint by a seafarer alleging a breach of the requirements of MLC 2006 (including seafarers’ rights) may be reported to an inspector in the port at which the seafarer’s ship has called. In such cases, the inspector shall undertake an initial investigation.

(2) Where appropriate, given the nature of the complaint, the initial investigation shall include consideration of whether the on-board complaint procedures provided for under Regulation 5.1.5 of MLC 2006 have been pursued. An inspector may also conduct a more detailed inspection in accordance with Regulation 10.

(3) An inspector shall, where appropriate, seek to promote a resolution of the complaint at the ship-board level.

(4) In the event that the investigation or the inspection reveals a non-conformity that falls within the scope of Regulation 16, that Regulation shall apply.

(5) Where paragraph (4) does not apply and a complaint by a seafarer related to matters covered by MLC 2006 has not been resolved at the ship-board level, an inspector shall forthwith notify the flag State, seeking advice and a corrective plan of action to be submitted by the flag State. A report of any inspection carried out shall be transmitted by electronic means to the inspection database referred to in Article 24 of the Port State Control Directive.

(6) Where the complaint has not been resolved following action taken in accordance with paragraph (5), the competent authority shall transmit a copy of the inspector's report to the Director-General of the International Labour Office. The report shall be accompanied by any reply received from the competent authority of the flag State. The appropriate seafarers' and shipowners' organisations in the State shall be similarly informed.

(7) This Regulation is without prejudice to Regulation 15.

(8) Regulation 15(4) also applies to complaints relating to matters covered by MLC 2006.”,

(e) by inserting after Regulation 16(1) the following:

“(1A) In the case of living and working conditions on board which are clearly hazardous to the safety, health or security of seafarers or deficiencies which constitute a serious or repeated breach of MLC 2006 requirements (including seafarers' rights), the competent authority shall ensure that the ship is detained or that the operation in the course of which the deficiencies are revealed is stopped.

(1B) The detention order or stoppage of an operation shall not be lifted until those deficiencies have been rectified or if the competent authority has accepted a plan of action to rectify those deficiencies and it is satisfied that the plan will be implemented in an expeditious manner. Prior to accepting a plan of action, the inspector may consult the flag State.”,

(f) in Regulation 16—

(i) by substituting for paragraph (2) the following:

“(2) For the purposes of paragraphs (1) and (1A) the competent authority may cause a direction to be given to the owner or master of a ship or to a port authority or harbour master and the owner or master or port authority or harbour master, as the case may be, shall comply with the direction.”,

and

(ii) by substituting for paragraph (6) the following:

“(6) When a ship is detained, the competent authority shall immediately inform, in writing and provide with a copy of the report of inspection of all the circumstances in which intervention was considered necessary—

(a) to—

(i) the flag state administration,

(ii) when this is not possible, the Consul of that state, or

(iii) in his or her absence, the nearest diplomatic representative of that state, and

(b) where relevant, to nominated surveyors or recognised organisations responsible for the issue of classification certificates or statutory certificates in accordance with the Conventions.

(6A) If a ship is prevented from sailing due to serious or repeated breach of the requirements of MLC 2006 (including seafarers’ rights) or due to the living and working conditions on board being clearly hazardous to the safety, health or security of seafarers, the competent authority shall notify the flag State accordingly and invite a representative of the flag State to be present, if possible. The competent authority shall also inform the appropriate seafarers’ and shipowners’ organisations in the State.”,

(g) in Regulation 24, by substituting for paragraph (3) the following:

“(3) A person who commits an offence under Regulation 5(7), 8(2), 11(9), 16(11), 18(9) or (10), 19(5) or (6), 20(4) or 21(3) is liable on summary conviction to a class A fine.”,

6 [519]

and

(h) by deleting Regulation 25.



GIVEN under my Official Seal,  
19 November 2014.

PASCHAL DONOHOE,  
Minister for Transport, Tourism and Sport.

EXPLANATORY NOTE

*(This note is not part of the Instrument and does not purport to be a legal interpretation.)*

These Regulations give effect to Directive 2013/38/EU of the European Parliament and of the Council of 12 August 2013 amending Directive 2009/16/EC on port State control.

These Regulations amend the European Communities (Port State Control) Regulations 2010 (S.I. No. 656 of 2010) by including additional requirements, which derive from the Maritime Labour Convention, 2006, to the port State control inspection regime.

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