



Maritime and Coastguard Agency

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## **New Port State Control Directive**

**Notice to all Shipowners, Operators, Masters, Seafarers, Port Authorities and Pilots**

*This MIN expires expires 31 March 2011*

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### **Summary**

The purpose of this MIN is to notify stakeholders of the forthcoming implementation of the new Port State Control directive into UK law from the 1<sup>st</sup> January 2011 and explain the changes to the Port State Control regime.

## **1. Introduction and Background**

- 1.1 Severe sea and coastal pollution associated with the structural failure and loss of the single hull oil tankers the Erika off the coast of France in 1999 and the Prestige off the coast of Spain in 2002, led to a programme of European legislation. Among measures introduced were changes to port State control, which included the concept of Mandatory Expanded Inspections and Mandatory Inspections on ships with a Target Factor over 50, phasing out single hull oil tankers, a surveillance system for monitoring traffic in waters of EU members and, more recently, a package of 8 legal instruments (the Third Maritime Safety Package) including **Directive 2009/16 on port State control, to replace existing Directive 95/21, to be implemented into UK legislation on 1<sup>st</sup> January 2011.**
- 1.2 The Paris MOU were also looking at a new approach to Port State Control (PSC) to target substandard ships and move away from the 25% inspection regime where good ships were being targeted as well as poor ships. The New Inspection Regime (NIR) was developed by the Paris MOU to provide: a more risk based system of targeting ships; dispense with the 25% inspection commitment and provide full inspection coverage of ships visiting the Paris MOU region as a whole, to which each member contributes a fair share. Another aim of the NIR is to eliminate substandard shipping by increasing the frequency of inspection of "high risk" ships, while reducing the frequency of inspection of "low risk" ships, with the intention of rewarding the good operator. The concept of the NIR is incorporated into the new PSC directive.

## **2. UK Implementation**

2. The UK already has existing powers of inspection and detention through the 1995 Merchant Shipping Act as amended. However a new Statutory Instrument will implement specific provisions of the new PSC Directive where new law is needed.

- 2.1 A new Merchant Shipping Notice (MSN) will be issued to provide guidance to shipowners, masters, agents, port authorities etc on the implementation of the new PSC regulations.
- 2.2 A new Merchant Shipping Notice (MSN) will be issued to provide guidance to ports on their reporting requirements under the PSC directive and the Vessel Traffic Monitoring Directive as amended.
- 2.3 Technically the EU Directive on PSC (2009/16/EC) came into force on 17<sup>th</sup> June 2009, however member States have a “transposition period” to implement the Directive into their national legislation by the 1<sup>st</sup> January 2011.
- 2.4 For the purposes of counting number of detentions towards the banning provision, inspections and detentions for calculating company performance etc this will be from 17<sup>th</sup> June 2009
- 2.5 Note also that inspections under the previous regime will count. Thus, for example, if a ship was inspected on 21<sup>st</sup> October 2010 and under the new regime is designated a Standard Risk ship, the window for inspection will open 21<sup>st</sup> August 2011 (ie 10 months after last inspection) and the ship will be Priority II. The ship will become Priority I from the 21<sup>st</sup> October 2011 (ie 12 months since the last inspection) and must be inspected.

### 3. Key Changes

- 3.1 The new Directive, incorporating the New Inspection Regime introduces some key changes with respect to the existing PSC Directive and Paris MOU PSC procedures. The key changes are:
- 3.2 Ships will be targeted for inspection based on their “risk profile”. Each ship in the database will be allocated a risk profile, the criteria is based on: type of ship; age of ship; flag; Recognised Organisation (RO); company performance; number of deficiencies and number of detentions. Ships will be designated “high risk”, “low risk” or “standard risk”. A ship risk profile calculator is available on the Paris MoU and EMSA website which allows companies to calculate the ship risk profile of their ships. (see Annex I);
- 3.3 Company performance is a new criteria and is based on the companies performance in the Paris MOU region appertaining to number of deficiencies per inspection and number of detentions in the preceding 3 year period. A company performance calculator is available on the Paris MoU and EMSA website which allows companies to calculate their company performance. (see Annex II);
- 3.4 Frequency of inspection depends on the ship risk profile, high risk ships will be due “periodic” inspections every 5 - 6 months, low risk every 24 - 36 months and standard risk every 10 - 12 months. When the “window” for inspection opens, eg after 5 months for a high risk ship (HRS), the ship is designated Priority II (PII) and **may** be inspected. When the window closes, eg after 6 months for a HRS the ship becomes Priority I (PI) and the **must** be inspected, ie it is mandatory. However, PI inspections can, in certain circumstances, be postponed to another port in the same member State or a port in another member State provided they agree in advance to undertake the inspection.

Inspections will not take place if the ship call takes place only at night time or if in the judgement of the port State the inspection would create a risk to the safety of the inspectors, the ship, its crew or to the port;

- 3.5 “Additional” inspections may be carried out between periodic inspections due to “overriding” or “unexpected” factors such as, a report from a pilot, ship involved in a collision, grounding or stranding on its way into port. This is similar to the present “overriding priority” concept but has 2 levels. An overriding factor will automatically trigger the ship to be designated PI and **must** be inspected. An unexpected factor will cause the ship to become PII and **may** be inspected at the discretion of the PSC administration;
- 3.6 Type of inspection, “expanded”, “initial” or “more detailed”, will depend on risk profile. High risk ships, regardless of type, will undergo, as a minimum, an “expanded” inspection. Low risk and Standard risk ships will undergo an initial or more detailed inspection. Ships currently requiring expanded inspections (bulk carriers, oil, gas and chemical tankers, passenger ships) will still be subject to expanded inspections;
- 3.7 Ships requiring an expanded inspection must give notice of arrival in a UK port or anchorage to the port authority at least 72 hours before arrival. The port authority must forward the information to the MCA via the MCA Consolidated European Reporting System (CERS);
- 3.8 Ships may be inspected in an anchorage within the port jurisdiction where a “ship/port interface” takes place;
- 3.9 Port authorities are subject to a requirement to record information on **actual** times of arrival and departure of ships calling at their ports and anchorages in the MCA Consolidated European Reporting System (CERS);
- 3.10 “Refusal of Access” (banning) is amended to include all ship types registered with a black or grey listed flag, according to the “ParisMOU BGW list”. Banning will be based, as at present, on the number of detentions within a specified period. For a black listed flag ship, if it has been detained more than twice in the preceding **36 months** it will be banned. For a grey listed ship, if it has been detained more than twice in the previous **24 months** it will also be banned. A minimum time of banning will apply, 3 months for first ban, 12 months for second ban. A detention after a second ban could lead to possible permanent exclusion from EU ports and anchorages;
- 3.11 Current reporting requirements by port pilots and port authorities of ship related anomalies will be extended to deep sea pilots.

#### **4. Implications for UK Shipowners**

- 4.1 The new system is more prescriptive in that depending on the risk profile of a ship it will be known when the next periodic inspection is due. Thus, for a Standard Risk ship, once an inspection has taken place then the ship could expect an inspection free period of at least 10 months. The ship **could** be inspected within the next 2 months but will know that after 12 months it **will** be inspected at the next ParisMOU port. (see Paragraph 3.4)
- 4.2 In order to be a Low Risk ship the flag State must be on the Paris MOU white list and the flag State has undergone the **Voluntary IMO Member State Audit (VIMSA) Scheme**. The UK has undergone the audit. Note also that in order to maintain Low Risk status no more than 5 deficiencies should be recorded at any one inspection and no detention recorded in the preceding 3 years. See Annex I for details of calculating the risk profile. A

calculator is also available on the EMSA website  
([http://www.emsa.europa.eu/appl/SRP\\_Calculator.html](http://www.emsa.europa.eu/appl/SRP_Calculator.html)) (See Annex I and II)

- 4.3 The company performance is calculated daily and is part of the criteria for the risk profile. In order to be a low risk ship the company performance must be “high”. See Annex II for details of how the company performance is calculated. A calculator is also available on the EMSA website  
([http://www.emsa.europa.eu/appl/Company\\_Performance\\_Calculator.html](http://www.emsa.europa.eu/appl/Company_Performance_Calculator.html))
- 4.4 Operators and masters of ships due for an expanded inspection are required to set aside sufficient time in the operating schedule to allow an expanded inspection to be carried out; the ship is required to remain until the inspection is completed.

## 5. Definitions and Abbreviations

**Additional Inspection** – An inspection carried out following notification of either an “unexpected factor” or an “overriding factor”.

**Black Grey and White (BGW) List** – a list of flag States published every year on the 1<sup>st</sup> of July by the ParisMOU. It is prepared on the basis of ParisMOU inspection results over 3 calendar years and uses binomial calculus to take into account sample size. (More details available at [www.parismou.org](http://www.parismou.org))

**Expanded Inspection** – a prescriptive inspection that covers specific items on different ship types.

**Initial Inspection** – an inspection to check compliance with the conventions and comprises a check of certification and a walk around the ship.

**More Detailed Inspection** – a more in-depth inspection where the “Initial Inspection” has revealed “clear grounds” that the ship does not substantially meet the requirements of the conventions

**Overriding Factor** – a factor that is considered serious enough to trigger an additional inspection at Priority I. eg ships reported by another member State, ships accused of an alleged violation of the provisions on the discharge of harmful substances and effluents.

**Periodic Inspection** – an inspection carried out according to the “risk profile” of the ship.

**Ship Risk Profile** – The profile awarded to a ship in the database based on certain criteria. Ships are designated “High Risk”, “Low Risk” or “Standard Risk”

**Ship to Port Interface** – interactions that occur when a ship is affected by actions involving movement of persons or goods or the provision of port services to or from the ship eg bunkering.

**Unexpected Factor** – A factor that could indicate a serious threat to the safety of the ship and the crew or to the environment eg a ship reported by a pilot, a ship which did not comply with the reporting requirements, ship operated in a manner to pose a danger. The need to undertake an additional inspection is for the professional judgement of the port State administration

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## Ship Risk Profile

		Profile					
		High Risk Ship (HRS)		Standard Risk Ship (SRS)	Low Risk Ship (LRS)		
Generic Parameters		Criteria	Weighting points	Criteria	Criteria		
1	Type of ship	Chemical tankship Gas Carrier Oil tankship Bulk carrier Passenger ship	2	neither a high risk nor a low risk ship	All types		
2	Age of ship	all types > 12 y	1		All ages		
3a	Flag	BGW-list	Black - VHR, HR, M to HR		2	White	
			Black – MR		1		
3b		IMO-Audit	-		-	Yes	
4a	Recognized Organisation	Performance <sup>e</sup>	H		-	-	High
			M		-	-	-
			L		Low	1	-
			VL		Very Low		-
4b		EU recognised	-		-	Yes	
5	Company	Performance	H		-	-	High
			M		-	-	-
			L		Low	2	-
			VL	Very Low	-		
Historic Parameters							
6	Number of def. recorded in each insp. within previous 36 months	Deficiencies	Not eligible	-	≤ 5 (and at least one inspection carried out in previous 36 months)		
7	Number of Detention within previous 36 months	Detentions	≥ 2 detentions	1	No Detention		

The table above shows the criteria within each parameter for the three ship risk profiles – high, standard and low. For High Risk Ships (HRS) each criterion has a weighting which reflects the relative influence of each parameter on the overall risk of the ship.

HRS are ships which meet criteria to a total value of 5 or more weighting points.

LRS are ships which meet all the criteria of the Low Risk Parameters and have had at least one inspection in the previous 36 months.

SRS are ships which are neither HRS nor LRS.

The use of weighting points is a means of determining which combinations of criteria indicate a HRS. For example the following combinations have 5 points:

- a) Oil tanker (2 pts.), black listed flag, HR (2 pts.), and low RO performance (1 pt.)
- b) Container ship (0 pts.), more than 12 years old (1 pt.), black listed flag, MR to HR (2 pts.), very low RO performance (1 pt.), and  $\geq 2$  detentions in last 36 months (1 pt.)
- c) Bulk carrier (2 pt.), black listed flag, VHR (2 pts.), and  $\geq 2$  detentions in last 36 months (1 pt.)
- d) General cargo ship (0 pts.), more than 12 years old (1 pt.), low RO performance (1 pt.), low company performance (2 pts.), and  $\geq 2$  detentions in last 36 months (1 pt.)

The reward granted to a LRS will be withdrawn after 36 months if no further inspection is carried out between the 24<sup>th</sup> (end of time span according to inspection scheme) and the 36<sup>th</sup> month. In such cases it will not meet criterion number 6 in table 3 above and therefore becomes a SRS.

A ship's risk profile is recalculated daily taking into account changes in the more dynamic parameters such as age, the 36 month history and company performance. Recalculation also occurs after every inspection and when the applicable performance tables for flag and R.O.s are changed.

## Company performance formula

### 1. Detention index

The detention index is the ratio of the number of detentions of all ships in a company's fleet to the number of inspections of all the ships in the company's fleet within the last 36 months, compared with the average detention ratio for all ships inspected in the region covered by the Paris MOU over the last 3 calendar years.

The detention index will be average, above average or below average depending on whether the ratio is within the average percentage of detentions in the region covered by the Paris MoU with a margin of +/- 2 percent points, above or below.

The detention index of a company shall become automatically above average irrespective of all other inspection results if a refusal of access order in accordance with Directive 2009/16/EC is issued within the last 36 months to any ship in the fleet.

### 2. Deficiency index

The deficiency index is the ratio of the total points of all deficiencies of all ships in a company's fleet to the number of inspections of all ships in the company's fleet within the last 36 months, compared with the average deficiency ratio for all ships inspected in the region covered by the Paris MOU over the last 3 calendar years.

ISM (International Safety Management) related deficiencies shall be weighted at 5 points while any other deficiencies shall be weighted at 1 point. The average deficiency ratio within the region covered by the Paris MOU shall be weighted taking into account the average occurrence of ISM and non ISM deficiencies per inspection.

The deficiency index will be average, above average or below average depending on whether the ratio is within the weighted average of deficiencies in the region covered by the Paris MOU with a margin of +/- 2 percent points, above or below.

### 3. Company performance matrix

Detention Index	Deficiency Index	Company Performance
above average	above average	very low
above average	average	low
above average	below average	
average	above average	
below average	above average	
average	average	medium
average	below average	
below average	average	
below average	below average	high

The company performance formula takes account of the detention and deficiency history of all ships of a company.

<b>Example</b>	Deficiencies	Number	Value	Points	
	Non-ISM	90	1 pt.	90	
	ISM	10	5 pts.	50	
	Total points			140	/ 15 (no. of insp.)
				9.3	points per inspection

### Detention Index

Determination of thresholds:

Average of detentions in Paris MoU within last 36 months = 6.1 %

Thresholds determined by margins of +/- 2 percentpoints of average percentage of detentions

above average	> 8.1 %
average	4.1 % - 8.1 %
below average	< 4.1 %

The detention index will be calculated by the ratio of number of detentions to number of inspections within 36 months.

Each banning will trigger a detention index above average.

Example: Ships of company XY have been inspected 15 times within 36 months resulting in 2 detentions

Company XY has a detention rate of  $2 / 15 \times 100 = 13,33 \%$ , which is above average.

### Deficiency Index

Basis figures: 70,000 deficiencies recorded in Paris MoU database and 22,000 inspections give an average occurrence of 3.2 deficiencies per inspection.

Of 70,000 deficiencies 4,000 are ISM related, which means an average occurrence of  $4,000 / 70,000 \times 3.2 = 0.2$  ISM related deficiencies per inspection.

Calculation of deficiency index

Parameter	Value	Average Occurrence	Points
each deficiency counts	1 pt.	x 3.2	3.2
each ISM related deficiency counts	5 pts.	x 0.2	1.0
Total points per inspection			4.2

Thresholds determined by margins of +/- 2 points of the average of deficiencies

above average	> 6.2
average	2.2 – 6.2
below average	< 2.2

Example: Company XY has had in 36 months 15 inspections with the following results:

Therefore deficiency index of company XY is above average. In total company XY has a very low performance.