



**ORDER**  
**No 133/31 August 2021**

On the basis of Article 362(1)(1) and (3) of the Merchant Shipping Code, in conjunction with Article 31 of Ordinance No 11 of 26 April 2004 on surveys of ships and shipowners (promulgated SG No 52 of 2004, amended SG No 101 of 2004, SG No 9 of 2009, No 30 of 2009, SG 49/09, amended and supplemented SG No 65 of 2013, amended SG No 16 of 2014, amended and supplemented SG No 5/2015, SG No 89/2018, SG 7/2020) and Article 10(1)(2) of the Rules of Procedure of the Executive Agency Maritime Administration, as well as in order to improve the safety and technical condition of ships flying the Bulgarian flag and their alignment with the requirements of the applicable international conventions,

**ORDER:**

**I. Scope of application**

This Order applies to all seagoing ships flying the Bulgarian flag and covered by the international conventions to which the Republic of Bulgaria is a party, their shipowners and crews. It lays down the procedure for carrying out inspections of ships flying the Bulgarian flag and their crews by the inspectors of the Department Ship and Shipowners Survey, Certification and Registration (PORK) of DMA-Burgas and DMA-Varna, in accordance with the provisions of Article 72(1) and (2) in conjunction with Article 73(1), Article 74, Article 75(1) and (4) of the Merchant Shipping Code and Article 8 of Ordinance No 11 of 26 April 2004 on inspections of ships and shipowners.

**II. Obligations of shipowners and masters of vessels**

1. Shipowners shall maintain the technical condition, equipment and supply of the ships covered by this Order in a condition consistent with the condition in which the ship was at the time when the relevant safety/security certificates were issued.

1.1. In the event of changes in the technical condition of the ship, its equipment and its supply that alter or violate the conditions under which any safety/security certificate has been issued, the master of the ship shall immediately notify the Executive Agency "Maritime Administration" (EAMA), the relevant recognized organisation, authorized to conduct surveys of the ship (if any), the shipowner and the classification society monitoring the ship.

1.2. In the cases referred to in point 1.1, when the ship is at sea, the master of the ship shall also immediately inform the administration of the next port concerned.

2. When carrying out an inspection of a ship in accordance with the Port State control (PSC), the shipowner is obliged to immediately notify the EAMA, the recognised organisation and the classification society which monitors the vessel.

2.1. Within 24 hours of the inspection carried out, the shipowner shall send all the inspection documentation, together with a comment on the reasons for the non-conformities (if any) and the actions taken to remedy them.

2.2. At the request of the EAMA or the relevant recognized organization, the shipowner shall provide additional information concerning the inspection carried out and the technical condition of the vessel.

**III. Inspection of vessels and shipowners to verify compliance with the provisions for continuous maintenance of ship technical condition, equipment and supply**

1. Every ship flying a Bulgarian flag calling a Bulgarian port shall be subject to a check of compliance with the applicable requirements of the international conventions if it has not been inspected within the last 6

months by the EAMA.

1.1. The inspection is carried out in accordance with the checklist QF 05-03-02 “Protocol for inspection of a ship by the flag administration”, part of the quality management system of EAMA.

1.2. The record with the circumstances and inconsistencies established therein shall be handed over to the master of the ship against signature.

2. Every ship flying the Bulgarian flag which has been detained as a result of a survey carried out in accordance with the Port State control shall be inspected for compliance with the applicable requirements of the international conventions no later than 30 days after its release.

2.1. The inspection shall be carried out in the form of QF 05-03-02 and check-lists intended for the issue of each of the conventional certificates in the scope of which the non-compliances leading to the detention of the ship have been identified.

2.2. The non-compliances found are both reflected in QF 05-03-02 and the corresponding check-list referred to in point 2.1. Documents shall be handed over to the master of the ship against signature.

2.3. In case of detention of the same ship twice in accordance with the procedure of Port State control within a period of one year or as prescribed by the PSC, an additional audit shall be carried out to confirm the “Safety management certificate”.

3. Each shipowner whose ships have been detained more than twice in the course of 12 consecutive months shall be subject to an additional audit of the safety management system.

3.1. In case of incidents accompanied by human casualties or loss of a ship, an additional audit of the company’s safety management system is carried out.

3.2. The audit shall be carried out in accordance with the requirements applicable to the issuance of the company’s compliance document.

3.3. The non-compliances found in a relevant form (QF 05-07-06 Audit Checklist for DOCs) are provided to the shipowner and the recognised organisation that has performed an audit of the company’s safety and protection system, where applicable.

#### **IV. Identification of the reasons for non-compliances detected during inspections and detentions under Port State control**

1. When establishing the causes of non-compliances, the following shall be taken into account:

- the time elapsed since the last examination for the issue/validation of the certificate was carried out;
- the discrepancies reflected in the survey report;
- the check-list of the examination;
- form B of the report of the inspection carried out in accordance with the Port State control procedure;
- correspondence between the shipowner and the ship’s management concerning a request for repair, procurement and technical status reports;
- the report on repairs carried out by the monitoring surveyor of a classification society.

2. When carrying out a control check in which non-compliances have been found, the relevant EAMA directorate of registration of the vessel compares the non-compliances reported in QF 05-03-02 with the non-compliances reflected in the survey reports to the relevant certificates when they are issued/confirmed, and draws a conclusion on the reasons, accompanied by documentary evidence.

3. In case of detention in accordance with the procedure of the Port State control, the relevant directorate of registration of the vessel shall compare the discrepancies reflected in form B of the inspection report with the non-conformities reported in the survey reports to the relevant certificates at the time of their issue/confirmation, as well as the discrepancies reflected in the documents referred to in point III. 2 and draw a conclusion on the reasons.

4. Depending on the conclusion of the reasons, the relevant vessel registration directorate of the EAMA shall order corrective actions and impose sanctions, where applicable.

5. The Director of the relevant EAMA Directorate shall inform the Executive Director of the EAMA in writing of the actions taken under item 4.

#### **V. Measures to correct non-compliances**

1. Measures to correct the non-compliances shall be applied regardless of whether they have been found during an examination for the issue/confirmation of a certificate or have been established following a Port State control inspection or during an inspection by the EAMA.

1.1. Where non-compliances, as defined in Resolution A.1138(31) of the International Maritime Organisation, as amended, are identified as discrepancies leading directly to the detention of the ship as set out in

Annex 2 to the Resolution, or those which, in the professional judgement of the inspector, could, together or individually, compromise the safety of the ship, persons and/or environmental protection, the certificate shall not be issued/confirmed, and the certificate shall be seized upon inspection and the ship shall not be allowed to sail until the non-conformities have been rectified.

- 1.2. Inspectors shall set together with the shipowner a time limit for re-inspection.
  - 1.3. A re- inspection shall be carried out following a report by the master of the vessel/owner that the non-conformities leading to the detention have been rectified.
  - 1.4. If the re- inspection reveals that the non-compliances have not been rectified, the vessel shall not be allowed to sail.
  - 1.5. If, within three months, the shipowner does not notify the EAMA in writing of his intention to restore the operation of the vessel, the Administration shall take steps to remove the vessel ex officio.
2. Upon finding that the system for safe management has deficiencies which endanger the safety of the ship and the protection of the marine environment against pollution, EAMA carries out an additional audit of it.

#### **VI. Application of administrative sanctions**

1. Where a failure to comply with the obligations to maintain the ship's condition in accordance with the requirements of the applicable international conventions has been established and sufficient evidence has been gathered that the non-compliance has been committed by an act or omission committed by the master of the ship, another member of the ship's crew, an employee of the shipowner or an employee of a recognized organization within the meaning of Ordinance No 4/2011 on Recognition of Organizations for Surveys of Ships and Ship Owners (promulgated SG No 104/2011, supplemented SG No 59/2015, amended and supplemented SG No 100/2015 and No 89/2018), the administrative sanctions referred to in Article 378(2) to (4) of the Merchant Shipping code shall be applied, bearing in mind the following:

1.1. Where the master, chief engineer officer or other member of the ship crew has committed an act or omission by which he has allowed the ship to be detained in accordance with the Port State control procedure, Article 378(2) of the Merchant Shipping code shall apply in order to seek administrative liability and to impose the penalties provided for in that provision.

1.2. Where a captain has been sanctioned on the basis of Article 378(2) of the Merchant Shipping code for having been detained a vessel under his command in accordance with the PSC procedure, as a result of his act or omission, and within the next 12 months after he was sanctioned with 'disqualification of the right to take office', he has committed a new act or omission allowing the same vessel or another vessel under his command to be detained in accordance with the PSC procedure, by repeat offence within the meaning of Article 378(3) of the Merchant Shipping code and sanctions are to be imposed on him according to this provision.

1.3. The Regulation referred to in paragraph 1.2 shall also apply accordingly where repeated acts or omissions are considered of the Chief Engineer, Chief mate, Second Engineer or any other member of the ship's crew leading to the detention of a ship in accordance with PSC procedure.

1.4. Where the act or omission which led to the detention of the ship in accordance with the Port State control has been committed by an employee of the shipowner or of a recognized organization within the meaning of Ordinance No 4/2011 on Recognition of Organizations for Surveys of Ships and Ship Owners, that person shall be liable to the sanction provided for in Article 378(4) of the Merchant Shipping code. In such cases, repeated acts or omissions are the acts or omissions allowing detention under the PSC procedure of the same ship or another vessel committed by the same officer within 12 months after entry into force of a first penalty order imposing a fine under Article 378(4) of the Merchant Shipping code.

2. Where the act or omission by which a ship is allowed to sail in breach of the requirements for safety and environmental protection or detained in accordance with the procedure of Port State control, has been committed by an inspector of the EAMA in the examination for the issuance or certification of the relevant conventional document, in addition of an administrative sanction under Article 378, Article 4 of the Merchant Shipping code:

2.1. the inspector that issued/confirmed the relevant certificate shall be removed from the vessel survey and certification group for a period of 3 months, and in the event of repeated infringement, for a period of 6 months.

2.2. upon expiry of the period referred to in point 2.1, before re-entering the inspection group, the inspector shall undergo an interview to verify his knowledge of the scope and nature of the duties.

3. Where the act or omission by which a ship is allowed to sail in breach of the requirements for safety and protection of the environment against pollution or detained in accordance with the procedure of Port State control has been committed by a surveyor of a recognized organization during a survey for the issue or certification of the relevant document, that person shall be liable to the sanction provided for in Article 378(4) of the Merchant

Shipping code, and in respect of the recognized organization shall be taken the measures provided for in Ordinance No 4/2011 on Recognition of Organizations for Surveys of Ships and Ship Owners.

4. Where the non-conformity of the ship's condition with the requirements of the applicable international conventions is due to the shipowner's failure to comply with obligations arising from the safety management system, the shipowner shall be liable to a fine under Article 374(1) of the Merchant Shipping code.

#### **VII. Procedure for the imposition of administrative sanctions**

1. For the administrative offences referred to in Articles 374(1) and 378(2) to (4) of the Merchant Shipping code, with the exception of the administrative offences committed by EAMA inspectors, an act of administrative offence shall be drawn up by the inspectors at the DMA-Varna and DMA-Burgas respectively in accordance with the Administrative Infringements and Penalties Act and in compliance with the quality procedure QP 03-06 of the quality management system of EAMA.

2. The directors of DMA-Varna and DMA-Burgas shall issue the penal decrees on the basis of the acts for establishing administrative offences drawn up in accordance with point 1.

3. The acts establishing administrative offences under Article 378(4) of the Merchant Shipping code, committed by inspectors of the EAMA, shall be drawn up by officials in the International and National Regulations of Shipping Directorate, and the penal decrees shall be issued by the Executive Director of the EAMA.

#### **VIII. Enforcement**

1. This Order shall be brought to the attention of all shipowners of seagoing ships flying the Bulgarian flag and falling within the scope of the international conventions to which the Republic of Bulgaria is a party.

2. The shipowners referred to in paragraph 1 shall prepare and send copies of this order to their ships for information and application by the masters.

3. The directors of DMA-Varna and DMA-Burgas shall organize the implementation of item 1 and the implementation of the order by the employees of the PORK Department.

4. The order is to be published on the EAMA website.

#### **IX. Entry into force**

This Order shall enter into force on 1 October 2021 and replace Order No 89 of 21 June 2004 of the Executive Director of the EAMA.

#### **X. Control**

I order the control and the implementation of this order to the Director of the International and National Regulations of Shipping Directorate, DMA-Varna and DMA-Burgas.

**Capt. ZHIVKO PETROV**

*Executive Director*

*Executive Agency "Maritime Administration"*