

# THE MERCHANT SHIPPING (RECOGNITION AND AUTHORIZATION OF ORGANIZATIONS) LAWS OF 2001 AND 2004<sup>1</sup>

LAW No 46(I) of 2001 AS AMENDED <sup>2</sup>

A LAW TO PROVIDE FOR THE RULES AND STANDARDS FOR THE OPERATION, RECOGNITION AND AUTHORIZATION OF INSPECTION AND SURVEY ORGANIZATIONS OF CYPRUS SHIPS AND FOR THE RELEVANT ACTIVITIES OF MARITIME ADMINISTRATIONS

The House of Representatives enacts as follows:

*Short title.*  
*46(I) of 2001*  
*83(I) of 2004.*

1. The Merchant Shipping (Recognition and Authorization of Organizations) Law of 2001 and the Merchant Shipping (Recognition and Authorization of Organizations) ( Amendment ) Law of 2004 shall be cited together as the Merchant Shipping (Recognition and Authorization of Organizations) Laws of 2001 and 2004.

*Interpretation.*

2. —(1) For the purposes of this Law —

“Advisory Committee” means the Advisory Committee provided for in section 4;

“authorization” means an act whereby the Republic grants an authorization or delegates powers to a recognized organization;

*2(f) of 83(I)/2004.*

“authorized Community officer” means an officer authorized by the Commission of the European Communities to assess recognized organizations according to Article 11(3) of Directive 94/57/EC;

“cargo ship” means a ship which is not a passenger ship.

“cargo ship safety radio certificate” means the certificate introduced by the amended Radio Regulations of the International Convention for the Safety of Life at Sea (SOLAS 74/78), adopted by the International Maritime

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<sup>1</sup> Consolidation Note: Includes the latest amendments introduced by Law 83(I)/2004. All these Laws were published in the Greek language in the Official Gazette of the Republic of Cyprus. This is an “unofficial” consolidated translation into English prepared by the Department of Merchant Shipping and does not intend to replace any translation prepared by the Law Commissioner’s Office.

According to Article 3 of the Constitution of the Republic of Cyprus, the official languages of the Republic of Cyprus are Greek and Turkish and therefore the present translation into English **is not the authentic version**.

<sup>2</sup> Consolidation Note: Law 46(I) of 2001 as amended by Law 83(I) of 2004, transposes into the Cyprus legal order EU Directive 94/57/EC of 22 November 1994 on common rules and standards for ship inspection and survey organizations and for the relevant activities of maritime administrations” (OJ L 319, 12.12.1994, p. 20), as last amended by Article 3 of Directive 2002/84/EC of the European Parliament and of the Council of 5 November 2002 amending the Directives on maritime safety and the prevention of pollution from ships (OJ L 324, 29.11.2002, p. 53).

Organization(IMO);

“certificate” means a certificate issued by or on behalf of the Republic, in accordance with the International Conventions or the legislation in force in the Republic;

*2(d) of 83(I)/2004.* “class certificate” means a document issued by a classification society certifying the structural and mechanical fitness of a ship for a particular use or service in accordance with the rules and regulations laid down and made public by that society;

*2(f) of 83(I)/2004.* “COSS Committee” means the Committee on Safe Seas and the Prevention of Pollution from Ships (COSS) established by Article 3 of the Community Act, referred to as Regulation (EC) No. 2099/2002 of the European Parliament and of the Council of 5 November 2002 establishing the Committee on Safe Seas and the Prevention of Pollution from Ships (COSS) and amending the Regulations on maritime safety and the prevention of pollution from ships (OJ L 324, 29.11.2002, p. 1) as amended or replaced from time to time, and which Committee is involved in the matters of this Law by virtue of Article 7 of Directive 94/57/EC;

*45 of 1963*  
*32 of 1965*  
*82 of 1968*  
*62 of 1973*  
*102 of 1973*  
*45 of 1974*  
*42 of 1979*  
*25 of 1980*  
*14 of 1982*  
*57 of 1986*  
*64 of 1987*  
*28(I) of 1995*  
*37 (I) of 1996.*

“Cyprus ship” means a ship which is registered in the Register of Cyprus Ships and flying the flag of the Republic, by virtue of the provisions of the Merchant Shipping (Registration of Ships, Sales and Mortgages) Laws 1963 to 1996 ;

*2(c) of 83(I)/2004.* “Directive 94/57/EC” means the Community Act referred to as “Council Directive of the European Union of 22 November 1994 on common rules and standards for ship inspection and survey organizations and for the relevant activities of maritime administrations” (OJ L 319, 12.12.1994, p. 20) as last amended by Article 3 of “Directive 2002/84/EC of the European Parliament and of the Council of 5 November 2002 amending the Directives on maritime safety and the prevention of pollution from ships” (OJ L 324, 29.11.2002, p. 53) as amended or replaced from time to time;

“ Director” means the Director of the Department of Merchant Shipping;

*2(f) of 83(I)/2004.* “European Economic Area Agreement” means the European Economic Area Agreement signed at Porto on 2nd May 1992 as amended from time to time;

“ inspections and surveys” means inspections and surveys made mandatory for Cyprus ships, by virtue of the International Conventions, laws and regulations in force in the Republic or which are binding on the Republic, and by virtue of other Codes, Standards, Resolutions, Recommendations or Guidelines of the International Maritime Organization, of the International Telecommunication Union, adopted by the Council of Ministers;

“ International Conventions” means –

7 of 1985  
32 of 1989  
24(III) of 1997.

(a) the International Convention for the Safety of Life at Sea, 1974 (SOLAS), ratified with the International Convention for the Safety of Life at Sea, (Ratification) and for Matters Connected Therewith Laws of 1985 to 1997,

39 of 1969  
24 of 1973  
17 of 1974  
43 of 1977  
7 of 1982  
53 of 1984  
90 of 1986  
25 (III) of 1997.

(b) the International Load Lines Convention, 1966 (LL), ratified with the International Load Lines Convention, 1966 (Ratification) and for Matters Connected Therewith Laws of 1969 to 1997,

57 of 1989  
11(III) of 1995.

(c) the International Convention for the Prevention of Pollution from Ships (MARPOL) 1973/78, ratified with the International Convention for the Prevention of the Pollution of the Sea from Ships of 1973, its Protocol of 1978 and the Resolutions MEPC 14(20) of 1984, MEPC 16(22) and MEPC 21(22) of 1985 (Ratification) and for Matters Connected Therewith Laws of 1989 to 1995,

11 of 1986.

(d) the International Convention on Tonnage Measurement of Ships, 1969 (TONNAGE 69), ratified with the International Convention on Tonnage Measurement of Ships, 1969 (Ratification) and for Matters Connected Therewith Law of 1986,

2(b) of 83(I)/2004.

(e) *[Paragraph (e) which related to the COLREGS 72 Convention was repealed by section 2(b) of Amendment Law 83(I) of 2004]*

110 of 1989.

(f) the Special Trade Passenger Ships Agreement 1971 (STP 71), and the Protocol on Space Requirements for Special Trade Passenger Ships 1973 (SPACE STP 73), ratified with the Special Trade Passenger Ships Agreement, 1971, and the Protocol on Space Requirements for Special Trade Passenger Ships 1973 (Ratification) and for Matters Connected Therewith Law of 1989, and

2(b) of 83(I)/2004.

(g) the related with these International Conventions Protocols, amendments, and relevant codes in their up-to-date version;

- “location” refers to the place of the registered office, central administration or principal place of business of an organization;
- 2(c) of 83(I)/2004.* “Member State” means a Member State of the European Union or any other State which is a contracting party to the European Economic Area Agreement;
- “Minister” means the Minister of Communications and Works;
- “notification” means a notification of the Director published in the Official Gazette of the Republic;
- 2(f) of 83(I)/2004.* “operator of a ship” means the shipowner or any other person, such as the manager or the bareboat charter, who has assumed the responsibility for operating the ship from the shipowner and who, on assuming such responsibility, has agreed to undertake all the duties and responsibilities which are imposed by this Law;
- “organization” means a classification society or other private body carrying out ship safety assessment work for an administration;
- 2(c) of 83(I)/2004.* “shipowner” means the person who owns a ship;
- “passenger ship” means a ship which carries more than twelve passengers;
- 2(c) of 83(I)/2004.* “recognized organization” means an organization recognized in accordance with the provisions of Article 4(1), (2), (3) and (5) of Directive 94/57/EC;
- “Republic” means the Republic of Cyprus;
- 2(f) of 83(I)/2004.* “ship” means a ship falling within the scope of application of the International Conventions;
- 2(e) of 83(I)2004.* “ship flying the flag of a Member State” means a ship registered in and flying the flag of a Member State in accordance with its legislation. A ship not corresponding to this definition is assimilated to a ship flying the flag of a third country;
- 2(f) of 83(I)/2004.* “Sirenac information system” means the central system of information for recorded data concerning ship inspections effected within the context of port State control, which system is located in Saint Malo of France and was established according to the relevant Paris Memorandum of Understanding of 1982 in its up-to-date version;
- “Surveyor of ships” means a person who is appointed by the Council of Ministers as a Surveyor of ships by virtue of section 3 of the Merchant Shipping (Registration of Ships, Sales and Mortgages) Laws 1963 to 1996;
- 2(g) of 83(I)/2004.* (2) The amendments to the international instruments referred to in the definition of the term “International Conventions” do not include amendments excluded from the scope of application of Directive 94/57/EC pursuant to

Article 5 of the Community Act ,referred to as Regulation (EC) No 2099/2002 of the European Parliament and of the Council of 5 November 2002 establishing a Committee on Safe Seas and the Prevention of Pollution from Ships (COSS) and amending the Regulations on maritime safety and the prevention of pollution from ships (O.J. L 324 of 29.11.2002, p.1), as amended or replaced from time to time.

*Competent Authority.*

3. —(1) The Competent Authority for the implementation of the provisions of this Law and of the relevant Regulations made there under is the Minister, who acts through, generally or specifically authorized by him public officers.

*3 of 83(I)/ 2004.*

(2) Specifically the Competent Authority has the power to issue instructions for the adoption of such measures to be followed by the recognized organizations, which have been authorized to carry out inspection, survey and certification of Cyprus ships, for compliance with the International Conventions. The Competent Authority shall act in accordance with the relevant provisions of the Annex and the Appendix to IMO Resolution A. 847(20) on guidelines to assist flag States in the implementation of IMO instruments.

(3) The Competent Authority supervises, oversees, and follows -up the work of the recognized and authorized organizations, as provided in this Law.

*Advisory Committee.*

4. — (1) A Committee is instituted (called the “Advisory Committee”), in order to advise the Competent Authority in the exercise of its powers provided by sections 5, 6, 9 and 10.

(2) The Advisory Committee is composed by five members, the Director and four other officers of the Department of Merchant Shipping, which are appointed from time to time by the Director. The Director is the Chairman of the Advisory Committee.

(3) The Advisory Committee is called by the Competent Authority at least once a year, and extraordinarily upon request of the Director, whenever the need arises.

(4) The Advisory Committee meets and legally reaches decisions if at its meetings the Chairman and two of its members are present. The decisions are taken by majority and in the case of equal voting, the Chairman has a casting vote.

*Survey and certification of Cyprus ships by authorized persons.  
4(a) of 83(I)/2004.*

5. —(1)(a) The inspection and survey of Cyprus ships, the marking of load lines, the tonnage measurement, the monitoring of shipbuilding and repair works of Cyprus ships ,the issue and renewal of relevant certificates ,of exemption certificates from the provisions of International Conventions and of certificates regarding compliance with the provisions of section 13, shall be undertaken, whether in whole or in part, only by -

(i) Surveyors of ships;

(ii) recognized organizations which are authorized by the Competent Authority under paragraph (b),

(b) The Competent Authority may authorize a recognized organization for the undertaking of any function mentioned in paragraph (a). Such an authorization shall be granted, upon a recommendation of the Advisory Committee, by an agreement concluded in accordance with the provisions of section 8.

*4(b) of 83(I)/2004.*

(2) The Competent Authority shall approve all cases of exemption, whether permanent or provisional, from the provisions of the International Conventions as well as the issue and renewal of the relevant certificates.

(3) As far as the cargo ship safety radio certificate is concerned, the relevant duties may be entrusted to a private body recognized by the Competent Authority having sufficient expertise and qualified personnel to carry out specified safety assessment work on radio-communication on its behalf.

(4) For the recognition and the assignment of relevant duties by the Competent Authority according to subsection (3), the private bodies must fulfil the criteria as set out by a decision of the Minister and published in the Official Gazette of the Republic. The recognition and assignment of such duties is effected by a relevant decision of the Competent Authority. The Competent Authority may withdraw its recognition to a private body which no longer fulfils the criteria or its performance is considered as not satisfactory.

(5) This section does not concern the certification of specific items of marine equipment.

*Recognition of organizations.  
5 of 83(I)/2004.*

6. —(1) Any organization has the right to submit to the Competent Authority an application for its recognition in accordance with Article 4(1) of Directive 94/57/EC. Each such application shall contain complete information and evidence which satisfy the Competent Authority that the applicant organization complies with the criteria set out in the Annex of Directive 94/57/EC and that the organization is able and undertakes to comply with the provisions of section 14(2), (4) and (5).

(2) The Competent Authority within reasonable time shall examine any application submitted to it under subsection (1), shall decide on it and notify its decision to the applicant organization.

(3) The Competent Authority may approve an application submitted to it under subsection (1) –

(a) upon a recommendation of the Advisory Committee; and

(b) provided that the application fulfils the requirements of subsection (1).

(4) In case the Competent Authority approves the application submitted under subsection (1) it -

(a) shall take all due measures for the submission on behalf of the Republic to the Commission of the European Communities of an application for recognition of the applicant organization under Article 4(1) of Directive 94/57/EC, which application contains the information and evidence referred to in subsection (1); and

(b) shall assess, together with the Commission of the European Communities, the applicant organization in accordance with the provisions of Article 4(1) of Directive 94/57/EC.

(5) The Competent Authority may reject an application submitted to it under subsection (1) for any reason which to its judgement makes such rejection reasonably necessary, including the reason of refusal or omission of the applicant organization to include in its application any of the information and evidence referred to in subsection (1).

(6) Any organization that fulfils the criteria set out in the Annex of Directive 94/57/EK, other than those set out under paragraph 2 and 3 of section A of that Annex, has the right to submit to the Competent Authority an application for its recognition in accordance with the provisions of Article 4(2) of Directive 94/57/EC. Each such application shall contain complete information and evidence which satisfy the Competent Authority that the applicant organization fulfils the criteria set out in the above mentioned Annex, other than those set out under paragraphs 2 and 3, and that the organization is able and undertakes to comply with the provisions of section 14(2), (4) and (5).

(7) In case an application is submitted to the Competent Authority under subsection (6), the provisions of subsections (2), (3) and (5) apply, mutatis mutandis.

(8) In case the Competent Authority approves any application submitted under subsection (6) it —

(a) shall take all due measures for the submission on behalf of the Republic to the Commission of the European Communities of an application for recognition of the applicant organization under Article 4(2) of Directive 94/57/EC, which application contains the information and evidence referred to in subsection (6); and

(b) shall assess, together with the Commission of the European Communities, the applicant organization in accordance with the provisions of Article 4(2) of Directive 94/57/EC.

(9) (a) Any organization who submits to the Competent Authority an application pursuant to subsection (1) or (6) containing false, inaccurate or misleading information commits a criminal offence punishable with a fine not exceeding four thousand pounds (£ 4.000).

- (b) In the case of a criminal prosecution for an offence under paragraph (a), it shall be a defence for the accused to prove that he filed his application in good faith and without knowing that it contained any false, inaccurate or misleading information.

*Duty to authorize recognized organizations. 6(a) (b) of 83(I)/2004.*

7. —(1) Subject to the provisions of subsection (3) of this section and to sections 8 and 11, the Competent Authority shall in principle not refuse to authorize the undertaking of any functions referred to in section 5 by a recognized organization.

(2) However, the Competent Authority may restrict the number of organizations it authorizes in accordance with its needs, provided there are transparent and objective grounds for so doing.

6(c) of 83(I)/2004.

(3) The Competent Authority may –

- (a) refuse to authorize a recognized organization, or
- (b) withdraw an authorization granted to a recognized organization,

which organization is located in a country other than a Member State, if that third country does not grant reciprocal authorization (treatment) to a recognized organization located in a Member State, and for which the Republic has requested from the said country such a reciprocal authorization (treatment) .

*Conclusion and model of agreement.*

8. —(1) The Republic sets out its working relationship with the organizations acting on its behalf in accordance with the provisions of this Law, by the conclusion of a formalized written and non-discriminatory agreement, setting out the specific duties and functions assumed by the organizations.

(2) The written agreement is signed on behalf of the Republic by the Competent Authority and on behalf of the authorized organization by its Chairman or its representative.

(3) The Competent Authority publishes by virtue of a notification in the Official Gazette of the Republic, the model of such agreement.

7(a) of 83(I)/2004.

(4) An agreement by virtue of this section must include at least the following:

- (a) the provisions set out in Appendix 2 of IMO Resolution A.739 (18) of 4<sup>th</sup> November 1993 on guidelines for the authorization of organizations acting on behalf of the administration, the text of which is set out in Greek translation in the Second Schedule, while drawing inspiration from the Annex, Appendixes and Attachment of IMO

*Second Schedule.*



MSC/Circular 710 and MEPC/Circular 307 on model agreement for the authorization of recognized organizations acting on behalf of the administration;

- (b) the following provisions concerning financial liability:
- (i) if liability arising out of any incident is finally and definitely imposed on the Republic by a court of law or as part of the settlement of a dispute through arbitration procedures, together with a requirement to compensate the injured parties for loss or damage to property or personal injury or death, which is proved in that court of law or through the arbitration procedures to have been caused by a wilful act or omission or gross negligence of the recognized organization, its bodies, employees, agents or others who act on behalf of the recognized organization, the Republic shall be entitled to financial compensation from the recognized organization to the extent that the said loss, damage, injury or death is, as decided by that court or on the basis of the arbitration procedures, caused by the recognized organization;
  - (ii) if liability arising out of any incident is finally and definitely imposed on the Republic by a court of law or as part of the settlement of a dispute through arbitration procedures, together with a requirement to compensate the injured parties for personal injury or death, which is proved in that court of law or through the arbitration procedures to have been caused by any negligent or reckless act or omission of the recognized organization, its employees, agents or others who act on behalf of the recognized organization, the Republic shall be entitled to financial compensation from the recognized organization to the extent that the said personal injury or death is, as decided by that court or on the basis of the arbitration procedures, caused by the recognized organization; the Competent Authority and the recognized organization may agree to limit the maximum amount payable by the recognized organization, which shall, however, be at least equal to EUR 4 million;
  - (iii) if liability arising out of any incident is finally and definitely imposed on the Republic by a court of law or as part of the settlement of a dispute through arbitration procedures, together with a requirement to compensate the injured parties for loss or damage to property, which is proved in that court of law or through the arbitration procedures to have been caused by any negligent or reckless act or omission of the recognized organization, its employees, agents or others who act on behalf of the recognized organization, the Republic shall be entitled to financial compensation from the recognized organization, to the extent that the said loss or damage is, as decided by that court or on the basis of the arbitration procedures, caused by the recognized organization; the Competent Authority and the

recognized organization may agree to limit the maximum amount payable by the recognized organization, which shall, however, be at least equal to EUR 2 million;

(c) provisions for a periodical audit by the Competent Authority or by an impartial external body appointed by the Competent Authority, into the duties the organizations are undertaking on behalf of the Republic, as referred to in section 11(1);

(d) the possibility for random and detailed inspections of ships;

(e) provisions for reporting by the recognized organization to the Competent Authority of essential information about the organization's classed fleet, transfers of class, changes of class, suspensions and withdrawals of class, in accordance with section 14(3);

(f) provisions as to the effect that the agreement shall be treated as terminated in case the Commission of the European Communities withdraws the recognition of the recognized organization, and to the effect that, in such a case, the Republic shall not bear any liability for paying financial compensation to the said organization.

(5) The agreement may set the requirement that the recognized organization has local representation in the Republic. Such requirement may be satisfied by a local representation having legal personality under the laws of the Republic and being subject to the jurisdiction of Cyprus courts.

(6) The Competent Authority shall provide the Commission of the European Communities with copies of the agreements concluded with the recognized organizations.

7(b) of 83(I)/2004. (7) The Competent Authority and each recognized organization it authorizes shall cooperate with the Commission of the European Communities in accordance with the provisions of Article 6(5) of Directive 94/57/EC.

7(b) of 83(I)/2004. (8) Section 2(2) applies, mutatis mutandis, in relation to the amendments of international instruments referred to in subsection (4).

*Withdrawal of recognition of organizations.* **9.** —(1) [ Subsection (1) was repealed as from the 1<sup>st</sup> of May 2004 –i.e. on the day of accession of the Republic of Cyprus to the EU , by virtue of section 17(3) of this Law ].

(2) [ Subsection (2) was repealed as from the 1<sup>st</sup> of May 2004 –i.e. on the day of accession of the Republic of Cyprus to the EU , by virtue of section 17(3) of this Law ].

8 of 83(I)/2004. (3) In case the recognition of an organization is withdrawn by the Commission of European Communities in accordance with the provisions of Article 9 or 10(4) of Directive 94/57/EC, the Competent Authority shall withdraw any

authorization it may have granted to such an organization under section 5. The withdrawal of authorization shall be effected by a decision of the Competent Authority published in the Official Gazette of the Republic.

(4) [ Subsection (4) was repealed as from the 1<sup>st</sup> of May 2004 –i.e. on the day of accession of the Republic of Cyprus to the EU , by virtue of section 17(3) of this Law ].

*Suspension of authorization.  
9(a) of 83(I)/2004.*

**10.** —(1) Notwithstanding the criteria specified in the Annex of Directive 94/57/EC, where the Competent Authority considers that a recognized organization can no longer be authorized to carry out on behalf of the Republic the tasks specified in section 5, it may upon a recommendation of the Advisory Committee, suspend such authorization.

(2) The Competent Authority in the issue of its decision, shall examine whether the suspension is justified for reasons of serious danger to safety or the environment.

(3) (a) In case the Competent Authority decides the suspension of the authorization of a recognized organization, it shall inform the Commission of the European Communities and the other Member States of its decision without delay, giving substantiated reasons therefore

(b) The Competent Authority is informed by the Commission of the European Communities whether or not its decision to suspend the authorization is justified for reasons of serious danger to safety or the environment and, if it is not justified, it withdraws its suspension decision.

(4) The suspension of the authorization is effected by a decision of the Competent Authority, published in the Official Gazette of the Republic.

*9(b) of 83(I)/2004.*

(5)(a) In case the Commission of the European Communities suspends the authorization of an organization in accordance with the provisions of Article 10(2) or (3) of Directive 94/57/EC, the authorization that the Competent Authority may have granted to the said organization under section 5, in relation to the issuing or renewal of certificates for Cyprus ships , is considered to be suspended as from the date the Commission of the European Communities made its decision until the date the Commission revokes that decision.

(b) Paragraph (a) does not affect the force and validity of any certificate which the affected organization issues before the date of suspension of its recognition.

*Monitoring of recognized organizations.  
10(a) (b) of*

**11.** —(1) The Competent Authority shall monitor the work of the recognized organizations acting on behalf of the Republic, in order to satisfy itself that they effectively carry out the tasks referred to in section 5. This is achieved by having the recognized organizations directly monitored by the Advisory

- 83(I)/2004. Committee.
- 10(c) of 83(I)/2004. (2) The Advisory Committee shall carry out this task at least on a biennial basis and shall provide the Competent Authority with a report of the results of this monitoring at the latest by 31 March of each year following the years for which compliance has been assessed.
- 10(d) of 83(I)/2004. (3) (a) [*Paragraph (a) was repealed by section 10 (d) of Amendment Law 83(I)/2004*].
- (b) The Competent Authority provides to the Commission of the European Communities the report provided in the above subsection at the latest by 31 March of each year following the years for which compliance has been assessed.
- 10(d) of 83(I)/2004. (c) [*Paragraph (c) was repealed by section 10 (d) of Amendment Law 83(I)/2004*].
- 10(d) of 83(I)/2004. (d) [*Paragraph (d) was repealed by section 10 (d) of Amendment Law 83(I)/2004*].
- 10(e) of 83(I)/2004. (4) The Competent Authority shall ensure the assessment together with the Commission of the European Communities, in accordance with the provisions of Article 11(3) of Directive 94/57/EC, of any recognized organization which was either authorized by the Competent Authority under section 5 or for which the Republic submitted an application for recognition in accordance with the provisions of section 6(4) or (8) .
- 10(e) of 83(I)/2004. (5) Each recognized organization enjoying a valid authorization granted by the Competent Authority under section 5 or located in the Republic, shall make available on an annual basis to the COSS Committee the results of its quality system management review.
- Powers relevant to the monitoring of recognized organizations. 11 of 83(I)/2004.* **11A.**—(1) The powers set out in this section are granted-
- (a) to any Surveyor of ships, for the purpose of undertaking any assessment , survey, or monitoring referred to in section 11;
- (b) to any authorized Community officer, for the purpose of undertaking any assessment referred to in section 11(5) on behalf of the Commission of the European Communities.
- (2) Every Surveyor of ships and every authorized Community officer may in any reasonable time-
- (a) intercept, enter, inspect and survey any relevant ship, whether in port or en route , classified to the recognized organization under assessment and

- (b) enter, inspect, search and survey any premises or other place in the Republic, other than a private residence, in which he has due reason to believe that it is the location of, or is otherwise used for professional purposes by the recognized organization under assessment and
- (c) inspect any data registered in a mechanical, electric or electronic database, and any books or documents, which are located in any relevant ship referred to in paragraph (a), or any premises or other place (other than a private residence), referred to in paragraph (b), for which he has due reason to believe that they contain information or entry related to the purpose for which the power of inspection is exercised, and copy, photocopy and take copies, photocopies and extracts of them, provided that, in relation to the extracts, he has due reason to believe that such extracts may be used as evidence in any criminal proceedings related to any infringement or omission of compliance with this Law or the Regulations or Orders made there under; and
- (d) enter in any relevant ship referred to in paragraph (a) or in any premises or other place (other than a private residence), referred to in paragraph (b)—
  - (i) accompanied by any person whose presence he considers necessary for any purpose for which he exercises a power granted under this subsection or subsection (3), and
  - (ii) having with him any equipment or material which he considers necessary for any purpose for which he exercises a power granted under this subsection or subsection (3).

(3) The operator of a relevant ship referred to in subsection (2)(a) and the master or any other seafarer of such a ship, or a recognized organization and the person responsible for any premises or other place (other than a private residence), referred to in subsection (2)(b) have each the obligation to provide a Surveyor of ships or an authorized Community officer, who reasonably asks so, with -

- (a) any assistance and
- (b) any information, and
- (c) any signed declaration attesting the veracity of the information he provides,

and any Surveyor of ships or authorized Community officer has the power to demand and receive such assistance, information or written declaration.

(4) Each Surveyor of ships produces upon request before and during the performance of any of the powers conferred upon him by virtue of subsections (2) and (3), his identity card issued by the Minister in accordance with the Merchant Shipping (Identity Cards of Surveyors and Inspectors of Ships)

Regulations of 2000 , as amended or replaced from time to time.

(5) A person commits a criminal offence when—

- (a) he fails or omits to comply with an obligation imposed under subsection (3), or
- (b) without prejudice to the generality of paragraph (a), he conceals, destroys or forges any information, statement, detail, book or document or gives to any Surveyor of ships or authorized Community officer any false, incomplete, inaccurate or misleading information, statement, detail, book or document, or refuses to give to any Surveyor or authorized Community officer any information, statement, detail, book or document which information, statement, detail, book or document the Surveyor of ships or the authorized Community officer demanded during the exercise of his powers under this section,

and is liable—

(aa) in the case of a first offence, to imprisonment not exceeding six months or to a fine not exceeding two thousand pounds (£ 2.000) or to both such sentences.

(bb) in the case of a subsequent offence, to imprisonment not exceeding twelve months or to a fine not exceeding four thousand pounds (£ 4.000) or to both such sentences.

(6) In case of a criminal prosecution under subsection (5)—

- (a) With regard to an infringement or omission of compliance with an obligation imposed under subsection (3), it shall be a defence for the accused to prove that he had reasonable cause for the said infringement or omission;
- (b) with regard to giving false, incomplete, inaccurate or misleading information, statement, detail, book or document, it shall be a defence for the accused to prove that he gave that information, statement, detail, book or document in good faith and without knowing such information, statement, detail, book or document to be false, incomplete, inaccurate or misleading.

(7) For the purposes of this section, “relevant ship” means –

- (a) a Cyprus ship, wherever she is ; or
- (b) a ship other than a Cyprus ship which is within the jurisdiction of the Republic.

**12.** —(1) Subject to subsection (2), if during the exercise of inspection rights and obligations, respectively granted or assigned to the Competent Authority in accordance with the Merchant Shipping (Port State Control) Laws of 2001 and 2004, is verified that :

*competent authority.  
12 of 83(I)/2004.  
47(I) of 2001  
27(I) of 2004.*

- (a) a valid certificate was issued by an organization acting on behalf of a flag State to a ship which does not fulfill the relevant requirements of the International Conventions, or
- (b) a ship carrying a valid class certificate demonstrates any failure as to items covered by that certificate;

the Competent Authority shall inform accordingly —

- (aa) the Commission of the European Communities and the other Member States;
- (bb) the flag State of the affected ship; and
- (cc) the concerned organization at the time of the initial survey.

(2) The reporting referred to in subsection (1) concerns cases of ships representing a serious threat to safety and the environment or showing evidence of particularly negligent behavior of the organization concerned.

(3) An organization advised in accordance with the provisions of subsection (1) shall immediately take appropriate follow-up action.

*Compliance of  
Cyprus ships  
with the  
requirements  
of a recognized  
organization.*

**13.** —(1) Cyprus ships shall be constructed and maintained in accordance with the hull, machinery and electrical and control installation requirements of a recognized organization.

(2) All Cyprus ships for which the provisions of the international conventions apply, shall be classed with a recognized organization.

(3) (a) The Competent Authority may decide to use rules it considers equivalent to those of a recognized organization.

(b) The proviso of this subsection shall have effect, provided only that the Competent Authority shall immediately notify the rules it considers equivalent to those of a recognized organization to the Commission of the European Communities and to the other Member States provided they are not objected to by another Member State or the Commission of the European Communities and found not to be equivalent.

*Duties of  
recognized  
organizations.  
13 of 83(I)/2004.*

**14.** —(1) Every recognized organization enjoying an authorization in force granted by the Competent Authority under section 5 or located in the Republic—

- (a) shall consult with all other recognized organizations periodically with a view to maintaining equivalence of their technical standards and the implementation thereof in line with the provisions of IMO Resolution A.847(20) on guidelines to assist flag States in the implementation of IMO instruments; and

(b) shall provide the Commission of the European Communities, along with the rest of the recognized organizations with periodic reports on fundamental progress in standards.

(2) Every recognized organization enjoying an authorization in force granted by the Competent Authority under section 5 or located in the Republic shall cooperate with the Competent Authority and the Surveyors of ships, when Cyprus ships of their class are concerned, in order, in particular, to facilitate the rectification of reported deficiencies or other discrepancies, discovered in relation to such ships.

(3) (a) Every recognized organization enjoying an authorization in force granted by the Competent Authority under section 5 shall provide to—  
(i) the Competent Authority, and  
(ii) the Commission of the European Communities,

all relevant information about its classed fleet, transfers, changes, suspensions and withdrawals of class, irrespective of the flag the ships fly.

(b) Every recognized organization enjoying an authorization in force granted by the Competent Authority under section 5 or located in the Republic, shall communicate to the Sirenac information system and shall publish on its website, if it has one, every information on transfers, changes, suspensions, and withdrawals of class, including information on all overdue surveys, overdue recommendations, conditions of class, operating conditions or operating restrictions issued against their classed ships, irrespective of the flag the ships fly.

(4) (a) It is prohibited for a recognized organization —

(i) enjoying an authorization in force granted by the Competent Authority under section 5, to issue a certificate in relation to a Cyprus ship; or  
(ii) located in the Republic, to issue a certificate in relation to a ship, irrespective of the flag such a ship flies,

if such a ship, for safety reasons has either been declassified or is in the process of changing class, before giving the opportunity to the competent administration of the flag State to give its opinion within a reasonable time to determine whether a full inspection is necessary.

(b) Any certificate is null and void if issued in infringement or omission of compliance to paragraph (a).

(5) In case of transfer of class—

(a) of a Cyprus ship from a recognized organization enjoying an authorization in force granted by the Competent Authority under



- section 5 (hereinafter referred to as “the losing organization”) ; or
- (b) of a ship, irrespective of the flag it flies, from a recognized organization located in the Republic (hereinafter referred to as “the losing organization” ) ,

to any other organization (hereinafter referred to as “the gaining organization”)

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(aa) the losing organization shall inform the gaining organization of all overdue surveys, overdue recommendations, conditions of class, operating conditions or operating restrictions issued against the relevant ship.

(bb) on transfer, the losing organization shall provide the gaining organization with the complete history file of the vessel.

(cc) the gaining organization may issue certificates of the relevant ship only after all overdue surveys have been satisfactorily completed and all overdue recommendations or conditions of class previously issued against the vessel have been completed as specified by the losing organization; and

(dd) prior to the issuance of the certificates for the relevant ship, the gaining organization shall advise the losing organization of the date of issue of the certificates and confirm the date, location and action taken to satisfy each overdue survey, overdue recommendation and overdue condition of class.

(6) Every recognized organization enjoying an authorization in force granted by the Competent Authority under section 5 or located in the Republic shall cooperate with all other recognized organizations for compliance with Article 15 (5) of Directive 94/57/EC.

*Transitory provision.*

**15.** —(1) Certificates which have been issued for Cyprus ships by a recognized and authorized organization before the entry into force of this Law, shall continue to be valid and deemed as certificates issued by virtue of this Law, provided the issuing organization is recognized and authorized in accordance with the provisions of this Law.

*14 of 83(I)/2004.*

(2) *[Subsection (2) was repealed by section 14 of Amendment Law 83(I)/2004].*

*14 of 83(I)/2004.*

(3) *[Subsection (3) was repealed by section 14 of Amendment Law 83(I)/2004].*

*Criminal offences.  
15 of 83(I)/2004.*

**15A.** —(1) An organization which infringes or omits to comply with any of the provisions of sections 11(4), 12(3) and 14 shall be guilty of a criminal offence and shall be liable to a fine not exceeding five thousand pounds (£ 5.000).

(2) The operator of a Cyprus ship who refuses or fails to ensure compliance of the ship with any of the requirements of section 13(1) and (2) shall be guilty of a criminal offence and shall be liable to imprisonment not exceeding two

years or to a fine not exceeding five thousand pounds (£ 5.000) or to both such sentences.

(3) A person who wilfully obstructs or impedes the Director , any Surveyor of ships , authorized Community officer , or other officer, during the exercise of his powers or performance of his duties, by virtue of this Law or the Regulations made there under, or through any gratuity, bribe, promise or other incentive inhibits or intends to inhibit any such person from duly exercising his powers or performing his duties, by virtue of this Law or the Regulations made there under, shall be guilty of a criminal offence and shall be liable to—

(a) imprisonment not exceeding six months or to a fine not exceeding three thousand pounds (£ 3.000) or to both such sentences;

(b) imprisonment not exceeding twelve months or to a fine not exceeding four thousand pounds (£ 4.000) or to both such sentences, in case of a subsequent offence.

(4) (a) Where a criminal offence under this Law is committed, by a body corporate or by a person acting on behalf of a body corporate and is proved to have been so committed with the consent, connivance or approval of or to be attributable to any neglect on the part of any person, being a director, manager, secretary or other officer of the body corporate, or a person who was purporting to act in any such capacity, that person shall be guilty of a criminal offence and shall be liable —

(i) in relation to the offence established by subsection (1) of this section or section 6(9)(a), to imprisonment not exceeding twelve months or to a fine not exceeding four thousand pounds (£ 4.000) or to both such sentences.

(ii) in relation to any other criminal offence, to the relevant sentences provided for in this Law .

(b) In case of criminal prosecution against a natural person under paragraph (a), the relevant provisions of this Law providing a defence for the accused, shall apply mutatis mutandis.

(5) In case of criminal prosecution for an offence under this Law, it shall be a defence for the accused to prove that he took all reasonable measures to ensure conformity to the provision with which the alleged offence relates.

*Obligations  
of the  
Director.  
15 of 83(1)/2004.*

**15B.** —(1) The Director shall keep a copy of the international instruments referred to in subsection (2) and shall provide any person with :

(a) access to any such instrument, provided that the said person requests so in the prescribed manner; and

(b) a copy of any such instrument, provided that the said person requests so in the prescribed manner and pays to the Director a relevant fee prescribed by the Director, which in each case does not exceed the

cost borne by the Department of Merchant Shipping for the production of the copy.

(2) The international instruments in relation to which subsection (1) imposes an obligation upon the Director are the following:

(a) the up-to-date versions referred to in the definition of the term “International Conventions” in section 2(1);

(c) the Community Acts by which the exclusion which is referred to in section 2(2) and to which 8(8) refers, is effected;

(d) the IMO Resolutions and the Circulars referred to in this Law;

(e) The EN standards referred to in the Annex of Directive 94/57/EC.

*Amendment  
of the Schedules  
of this Law  
and of the  
Schedules of the  
Regulations.  
15 of 83(1)/2004.*

**15C.** —(1) The Minister has the power to amend by an Order any Schedule of this Law and any Schedule of the Regulations made there under.

(2) Each Order issued by the Minister by virtue of subsection (1) is published in the Official Gazette of the Republic and, unless provided otherwise, enters into force upon its publication.

*Regulations.*

**16.** — (1) The Council of Ministers has power to make Regulations in order to regulate any matter which under this Law needs or is capable of receiving regulation.

*16 of 83(1)/2004.*

(2) Regulations made under this Law shall be laid before the House of Representatives, which may approve or reject them within sixty days of their laying. If the House of Representatives approves the Regulations or the sixty days period lapses without any action being taken, the Regulations shall be published in the Official Gazette of the Republic and unless provided otherwise therein, shall come into force as from such publication.

*Entry into  
force.*

**17.** —(1) This Law shall come into force by virtue of a decision of the Council of Ministers, published in the Official Gazette of the Republic and issued upon a recommendation of the Minister<sup>3</sup>.

*17 of 83(1)/2004.*

(2) The provisions of sections 6, 7, 8(6),(7), and (8), 9(3), 10(3) and (5), 11(3), (4) and (5), 11A, 12, 13(3)(b) and 14(1)(b) and (3) (a) (ii) shall come into force on the day of accession of the Republic to the European Union.

<sup>3</sup> Consolidation Note: This Law entered into force on the 20<sup>th</sup> of June 2003 by virtue of the *Council of Ministers Decision P.I. 532/2003 (Gazette No. 3726, Supplement III (I), dated 20.06.2003)*.

17 of 83(I)/2004. (3) The provisions of section 9 (1), (2) and (4) shall be repealed on the day of accession of the Republic to the European Union.

#### FIRST SCHEDULE

18 of 83(I)/2004. *[The First Schedule which related to the Minimum Criteria for Organizations was repealed by section 18 of Amendment Law 83(I)/2004]*

#### SECOND SCHEDULE (section 8(4)(a))

IMO Resolution A.739 (18)

#### APPENDIX 2

#### *Elements to be included in an Agreement*

A formal written agreement or equivalent between the Administration and the recognized Organization should, as a minimum, cover the following items:

1. Application.
2. Purpose.
3. General conditions.
4. The execution of functions under authorization —
  1. Functions in accordance with the general authorization;
  2. Functions in accordance with special (additional) authorization;
  3. Relationship between the organization's statutory and other related activities;
  4. Functions to co-operate with port States to facilitate the rectification of reported port State control deficiencies or the discrepancies within the organization's purview.
5. Legal basis of the functions under authorization —
  1. Acts, regulations and supplementary provisions;
  2. Interpretations;
  3. Deviations and equivalent solutions.
6. Reporting to the Administration —
  1. Procedures for reporting in the case of general authorization;

2. Procedures for reporting in the case of special authorization;
  3. Reporting on classification of ships (assignment of class, alterations and cancellations), as applicable;
  4. Reporting of cases where a ship did not in all respects remain fit to proceed to sea without danger to the ship or persons on board or presenting unreasonable threat of harm to the environment;
  5. Other reporting.
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7. Development of rules and/or regulations – Information —
    1. Co-operation in connection with development of rules and/or regulations – liaison meetings;
    2. Exchange of rules and/or regulations and information;
    3. Language and form.
- 
8. Other conditions —
    1. Remuneration;
    2. Rules for administrative proceedings;
    3. Confidentiality;
    4. Liability;
    5. Financial responsibility;
    6. Entry into force;
    7. Termination;
    8. Breach of agreement;
    9. Settlement of disputes;
    10. Use of sub-contractors;
    11. Issue of the agreement;
    12. Amendments.
- 
9. Specification of the authorization from the Administration to the organization —
    1. Ship types and sizes;
    2. Conventions and other instruments, including relevant national legislation;
    3. Approval of drawings;
    4. Approval of material and equipment;

5. Surveys;
  6. Issuance of certificates;
  7. Corrective actions;
  8. Withdrawal of certificates;
  9. Reporting.
- 
10. The Administration's supervision of duties delegated to the organization —
    1. Documentation of quality-assurance system;
    2. Access to internal instructions, circulars and guidelines;
    3. Access by the Administration to the organization's documentation relevant to the Administration's fleet;
    4. Co-operation with the Administration's inspection and verification work;
    5. Provision of information and statistics on, e.g., damage and casualties relevant to the Administration's fleet.
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