

Regulations concerning amendments to the Regulation of 22 June 2004 No. 972 concerning protective security measures on board ships and mobile offshore drilling units

Laid down by the Norwegian Maritime Directorate on 1 July 2011 pursuant to sections 39, 40 and 47 of the Act of 16 February 2007 No. 9 relating to ship safety and security (the Ship Safety and Security Act), see also the Formal Delegation of 16 February 2007 No. 171 and the Formal Delegation of 31 May 2007 No. 590.

I

The Regulation of 22 June 2004 No. 972 concerning protective security measures on board ships and mobile offshore drilling units shall be amended as follows:

The regulations shall now be entitled:

Regulations of 22 June 2004 No. 972 concerning security, anti-terrorism and anti-piracy measures and the use of force on board ships and mobile offshore drilling units (the Security Regulations).

A new chapter heading shall be inserted before section 1, and shall read as follows:

Chapter 1: General provisions

Section 1, first paragraph, shall read:

(1) With the exception of sections 17 and 18, which shall apply to all ships, these regulations shall apply to the following Norwegian ships:

- a) passenger ships, including high-speed passenger ships, which are certified for international trade as defined in Chapter I, regulation 2(d) of the SOLAS Convention, and passenger ships which are certified as class A passenger ships as defined in the current regulations concerning the inspection, construction and equipment of passenger ships engaged in domestic trade;
- b) cargo ships, including high-speed cargo ships, with a gross tonnage of 500 or more, which are certified for international trade as defined in Chapter I, regulation 2(d) of the SOLAS Convention;
- c) mobile offshore drilling units. However, mobile offshore drilling units shall not be subject to the requirements of these regulations when on location or when they do not move beyond Norwegian jurisdictional areas.

Section 1, third paragraph, shall read:

(3) Sections 18 to 24 shall apply to ships sailing in, to or from an area subject to alert level 2 or 3, but only when they are sailing south of 30 degrees north latitude.

A new chapter heading shall be inserted before section 5, and shall read as follows:

Chapter 2: International provisions

A new chapter heading shall be inserted before section 7, and shall read as follows:

Chapter 3: Security and anti-terrorism measures

A new chapter 4 shall be included, which shall read as follows:

Chapter 4: Use of force and reporting

Section 17 *Use of force*

(1) When necessary to prevent or protect against acts of terrorism and piracy, the master shall be permitted to decide to employ force subject to the limitations laid down by international law. Any person on board shall be obliged to provide assistance and to respect the measures taken.

(2) The use of force shall only be permitted against a threat which is direct, immediate, significant and otherwise unavoidable. The use of force shall be avoided wherever possible, and when it is necessary, it shall be reasonably proportionate in view of the scope of the threat and the conditions otherwise.

(3) The unlawful use of force may result in criminal liability pursuant to the Act of 22 May 1902 No. 10 relating to the general civil penal code (the General Civil Penal Code).

Section 18 *Reporting*

(1) If the ship has been subjected to an attack and the ship has employed force, the incident shall be reported to the Norwegian Maritime Directorate within 72 hours. The report shall describe the incident and detail the persons involved and the use of force, including firearms. If the circumstances permit it, the situation should be documented by means of sound and video recordings, to the extent that this is possible.

(2) If there is reason to believe that the use of force has resulted in personal injury or death, a report shall immediately be made to the Norwegian National Criminal Investigation Service (Kripos).

Section 19 *Relationship with the Freedom of Information Act*

(1) Information which is sent to the Norwegian Maritime Directorate or the Norwegian National Criminal Investigation Service (Kripos) pursuant to sections 18, 20, second paragraph, or 23, second paragraph, may be covered by the exemption from access set out in section 24, third paragraph, of the Freedom of Information Act.

A new chapter 5 shall be included, which shall read as follows:

Chapter 5: Use and storage of firearms, armed guards, etc.

Section 20 *Use of armed guards and documentation requirement*

(1) To prevent or protect the ship against acts of terrorism and piracy, armed guards may be employed following the completion of a risk assessment and following consultation with the master.

(2) Before armed guards are taken on board pursuant to the first paragraph, the company shall send the following documents to the Norwegian Maritime Directorate for briefing purposes:

- a) A statement of reasons stating why the industry's guideline preventive measures are deemed insufficient and that there is a need for armed guards.
- b) An assessment of the suitability of the security firm and the guards, including the security firm's own documentary evidence:
 1. of satisfactory procedures for the recruitment and training of personnel;
 2. of satisfactory procedures for the procurement, use, maintenance, storage and transportation of equipment, including firearms and ammunition, relevant to the assignment in question;
 3. that the guards hold the necessary qualifications and have completed necessary training, including firearms training, for the assignment in question; and

4. that the guards are at least 18 years of age, can identify themselves and can submit a recently issued certificate of good conduct. If a certificate of good conduct cannot be obtained, an alternate, similar confirmation or reference should be procured.

The documentation shall also be stored on board.

(3) When selecting and using security firms, the company shall take account of guidelines developed by the International Maritime Organization, IMO.

(4) If the Norwegian Maritime Directorate becomes aware that a specific security company cannot be regarded as suitable for use on Norwegian-registered ships, the Norwegian Maritime Directorate shall be permitted to decide that companies are not permitted to use the company in question.

Section 21 *Duty of the company to notify its insurers*

Before using armed guards, the company shall give reasonable notice to the insurers covering its liability, losses, expenses or expenditure resulting from piracy, and provide any information required by an individual insurer in order to clarify matters relating to its insurance policy.

Section 22 *Procedures for the use of armed guards*

(1) The company shall establish procedures for the use of armed guards, and for the use and storage of firearms, that take into account the requirements laid down in these regulations. The procedures shall be notified to the master, the crew and guards accompanying the ship.

(2) The procedures shall state that guards on board are under the master's command.

(3) The procedures shall further state that guards brought on board must be briefed on the ship and conditions on board which are significant for their assignment.

(4) The procedures shall not be subject to verification and certification pursuant to sections 10 and 11 of the regulations.

Section 23 *Storage of firearms*

(1) Firearms shall be stored in a safe manner in accordance with the Regulations of 25 June 2009 No. 904 concerning firearms, firearm parts and ammunition, etc.

(2) The company or the master shall ensure that a register is kept of the firearms and ammunition loaded onto and unloaded from the ship, and shall report such loading and unloading to the Norwegian Maritime Directorate immediately. An explanation shall be provided for any discrepancy.

Section 24 *Use of firearms*

(1) Arming and the implementation of procedures for the use of firearms shall be approved by the master in each individual case. Individuals shall always be responsible for ensuring that their use of firearms complies with sections 17 and 22.

(2) Before firearms are used, consideration shall be given to the dangers or damage to which those on board may be exposed as a result of such use.

(3) If the circumstances permit, the attacker(s) shall be warned by means of light and sound signals and the firing of warning shots.

(4) The firing of aimed shots with the objective of rendering a person harmless shall only occur as a last resort and after other, gentler means have been tried unsuccessfully, or in situations in which alternative means clearly have no chance of success.

A new chapter 6 shall be included, which shall read as follows:

Chapter 6: Final provisions

Section 25 Entry into force

(1) This Regulation enters into force on 1 July 2004.

(2) For class A passenger ships, the Regulation enters into force on 1 July 2005.

II

This Regulation enters into force on 1 July 2011.