Republic of Latvia

Cabinet Regulation

No. 745

Adopted 22 December 2015

**Procedures for Authorisation, Verification and Monitoring of Recognised Security Organisations**

*Issued in accordance with*

*Section 18, Paragraph three of the Maritime Administration and Marine Safety Law*

**I. General Provisions**

1. This Regulation prescribes:

1.1. the requirements and procedures for authorisation, verification and monitoring of recognised security organisations (hereinafter – the organisation);

1.2. the requirements for the obtaining the certificate of compliance of the organisation, and also the procedures for the issuance and cancellation thereof.

2. Within the meaning of this Regulation:

2.1. security measures – the requirements that have been laid down in:

2.1.1. Regulation (EC) No 725/2004 of the European Parliament and of the Council of 31 March 2004 on enhancing ship and port facility security;

2.1.2. Chapter XI-2 of the International Convention for the Safety of Life at Sea of 1974 as amended (hereinafter – the SOLAS Convention);

2.1.3. The International Ship and Port Facility Security Code (hereinafter – ISPS Code);

2.1.4. this Regulation, the Maritime Administration and Marine Safety Law, the Law On Ports, and in the laws and regulations on ships, shipping companies, ports and port facility security function distribution, the procedures for implementation and monitoring;

2.2. certificate of compliance – a document, which attests the compliance of a merchant, a derived public person or authority (hereinafter – applicant) with the security measures referred to in Sub-paragraph 4.5, Part B of the ISPS Code and in this Regulation;

2.3. organisation – an organisation as defined in Paragraph 1 of Regulation 16 of Chapter XI-2 of the SOLAS Convention;

2.4. ship-port interface – the interface as defined in Paragraph 8 of Regulation 1 of Chapter XI-2 of the SOLAS Convention.

3. Authorisation, verification and monitoring of organisations shall be carried out by the State joint stock company “Maritime Administration of Latvia” (hereinafter – the Maritime Administration).

**II. Authorisation and Verification of an Organisation**

4. Maritime Administration shall authorise an organisation by taking the decision to issue the certificate (Annex 1) for six years for the performance of one or several of the following activities in the territory of the Republic of Latvia:

4.1. ship security assessment;

4.2. ship security inspection and certification;

4.3. development of the ship security plan and amendments thereto;

4.4. development of the port security plan and amendments thereto;

4.5. development of the port facility security plan and amendments thereto;

4.6. training of the port personnel in accordance with the laws and regulations on ships, shipping companies, ports and port facility security;

4.7. training of the port facility personnel in accordance with the laws and regulations on ships, shipping companies, ports and port facility security.

5. The Maritime Administration, by signing an authorisation agreement, may authorise to perform particular ship security-related activities for a classification society (a recognised organisation), which has been recognised in accordance with Regulation (EC) No 391/2009 of the European Parliament and of the Council of 23 April 2009 on common rules and standards for ship inspection and survey organisations, if they comply with the measures laid down in Sub-paragraph 4.5, Part B of the ISPS Code.

6. An applicant who wishes to obtain the certificate for the performance of the activities referred to in Sub-paragraph 4.1, 4.2, 4.3, 4.5 or 4.7 of this Regulation shall submit to the Maritime Administration a submission and documents, certifying the applicant's compliance with the requirements referred to in Annex 2 to this Regulation.

7. An applicant who wishes to obtain the certificate for the performance of the activities referred to in Sub-paragraph 4.4 or 4.6 of this Regulation, shall submit to the Maritime Administration a submission and documents, certifying the applicant's compliance with the requirements referred to in Annex 3 to this Regulation.

8. Upon a request of the Maritime Administration, the Security Police shall examine and give an opinion on whether the applicant, who wishes to obtain the certificate of compliance for performance of the activities referred to in Sub-paragraph 4.4 or 4.5 of this Regulation, complies with the requirements referred to in Annex 4 to this Regulation, and also on whether the State security authorities or the State Police do not have information that gives grounds to believe that the applicant's action contradicts the Constitution, laws or other laws and regulations and is directed against the State or public legitimate interests.

9. After the obtaining of the documents referred to in Paragraph 6, 7 or 8 of this Regulation, the Maritime Administration shall evaluate the information contained therein and take one of the following decisions:

9.1. to issue the certificate of compliance for performing one or several individual activities referred to in the submission;

9.2. to refuse to issue the certificate of compliance.

10. If the Maritime Administration takes the decision referred to in Sub-paragraph 9.1 of this Regulation, it shall together with the decision also prepare the certificate of compliance for issuance, in which it shall indicate the term of validity of the decision taken (hereinafter - the term of validity the certificate of compliance).

11. The Maritime Administration shall take the decision referred to in Sub-paragraph 9.2 of this Regulation, if:

11.1. the documents submitted by the applicant are incomplete and by submitting the additional information in cases referred to Paragraph 6 or 7 of this Regulation, the applicant has failed to rectify the deficiencies;

11.2. the applicant has provided false information;

11.3. it is found that the applicant does not comply with the requirements referred to in Annex 2, 3 or 4 of this Regulation;

11.4. regarding the applicant who wishes to obtain the certificate of compliance for performing the activities referred to in Sub-paragraph 4.4 or 4.5 of this Regulation, an opinion of the Security Police has been received that State security authorities or the State Police have information that gives grounds to believe that the relevant applicant's action contradicts the Constitution, laws or other laws and regulations and is directed against the State or public legitimate interests.

12. The list of organisations shall be placed on the website of the Maritime Administration, specifying the activities for the performance of which the organisations have been certified, and also the term of validity of the certificate of compliance.

13. If during the term of validity of the certificate of compliance, the name of the organisation, its legal status or legal address is changed, the organisation shall, within five working days after the introduction of the changes, inform the Maritime Administration thereof in writing. Documents supporting the changes shall be attached to the submission. The Maritime Administration shall, within three working days after the receipt of the submission, issue a new certificate of compliance.

14. If the original copy of the certificate of compliance has been lost, stolen, destroyed or damaged, the organisation shall inform the Maritime Administration thereof in writing. The Maritime Administration shall, within five working days after the receipt of the abovementioned information, issue a duplicate of the certificate of compliance.

15. The organisation during the term of validity of the certificate of compliance shall ensure in its operation the compliance with the requirements referred to in this Regulation.

**III. Monitoring of the Organisation and Cancellation of the Certificate of Compliance**

16. The Maritime Administration shall, at least once every two years, perform the audit of the organisation. Audit of a foreign organisation shall be carried out in the representation office of the organisation located in the territory of the Republic of Latvia. If the organisation has no representation office in Latvia, the audit may be performed in the office of the organisation abroad. The Maritime Administration may also perform an extraordinary audit if it has information that leads to the suspicion that the organisation does not meet the requirements of this Regulation.

17. In order to perform the audit referred to in Paragraph 16 of this Regulation, the officials of the Maritime Administration have the right to:

17.1. require the organisation to provide all the necessary information within the specified time period;

17.2. verify organisation's documents that are related to its certified activity;

17.3. receive copies of the documents referred to in Sub-paragraph 17.2 of this Regulation;

17.4. request explanations of any employee or representative of the organisation regarding facts or documents referring to the audit object.

18. Before starting the audit referred to in Paragraph 16 of this Regulation an official of the Maritime Administration shall inform in writing the head of the organisation or his/her substitute regarding the audit object and purpose.

19. Not later than within 15 days after the completion of the audit referred to in Paragraph 16 of this Regulation, the Maritime Administration shall prepare an audit report. The report shall contain the following information:

19.1. the objective of the audit;

19.2. the scope of the audit;

19.3. the persons performing the audit;

19.4. the time of the audit;

19.5. information regarding the organisation (name, registration number, legal address date of issue, number, term of validity of the certificate of compliance and certified activities);

19.6. information regarding the deficiencies detected in the operation of the organisation found in the audit, their scope and corrections made during the audit;

19.7. conclusions regarding the compliance of the organisation with the requirements of this Regulation;

19.8. conclusions regarding the compliance of the operation of the organisation with the authorisation agreement, if an authorisation agreement has been concluded with the organisation;

19.9. proposals for the rectification of the deficiencies detected during the audit.

20. The officials of the Maritime Administration who performed the audit, shall sign the prepared report and send it to the organisation. If according to the results of the audit there is a reason to take the decision to cancel the certificate of compliance, together with the report the relevant decision shall also be sent to the organisation.

21. The Maritime Administration shall take a decision to cancel the certificate of compliance, if the following facts are established in the activities of the organisation:

21.1. non-compliance with requirements of this Regulation;

21.2. systematic non-compliance of the security plans developed by the organisation with the security measures (assessing frequency of submission of plans non-compliant with the security measures and the nature of non-compliance);

21.3. non-compliance of the knowledge and skills of the employees of the organisation with the requirements in the field of security of ports, port facilities and ships;

21.4. interim international ship security certificates or approvals of conformity (in the International Ship Security Certificate) for ships which do not meet the security measures have been issued;

21.5. security personnel training has not been carried out in accordance with the approved training programme or security measures;

21.6. information has not been provided in accordance with the requirements referred to in Paragraphs 13 and 14 of this Regulation;

21.7. false information has been provided;

21.8. the organisation has ceased its activity;

21.9. it hinders the Maritime Administration to perform the audit of the organisation.

**IV. Closing Provisions**

22. Cabinet Regulation No. 767 of 13 November 2007, Regulations Regarding Recognised Security Organisations in the Field of Navigation and Port Operation is repealed (*Latvijas Vēstnesis*, 2007, No. 188).

23. The decision taken by the Maritime Administration regarding the issuance of the certificates of compliance before the day of coming into force of this Regulation, shall be in force until the expiry date of the certificate of compliance specified therein.

**Informative Reference to the European Union Directive**

This Regulation contains legal norms arising from Directive 2005/65/EC of the European Parliament and of the Council of 26 October 2005 on enhancing port security.

Prime Minister Laimdota Straujuma

Acting for the Minister for Transport,

Minister for the Interior Rihards Kozlovskis

**Annex 1**

Cabinet

Regulation No. 745

22 December 2015

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| Place for the issuer's symbol |  |  |

**Atzītās aizsardzības organizācijas**

**ATBILSTĪBAS SERTIFIKĀTS**

*Certificate of Compliance of Recognized Security Organization*

|  |  |  |  |  |
| --- | --- | --- | --- | --- |
| Valsts akciju sabiedrība  "Latvijas Jūras administrācija"  *Maritime Administration of Latvia* | |  | Latvijas Republika  *Republic of Latvia* | |
| Rīga  *Riga* |  | | | Nr. \_\_\_\_  *No.* |

Pamatojoties uz iesniegto dokumentu pārbaudi un valsts akciju sabiedrības "Latvijas Jūras administrācija" lēmumu, valsts akciju sabiedrība "Latvijas Jūras administrācija" apliecina, ka

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| --- | --- | --- |
|  |  |  |
|  | (juridiskās personas nosaukums vai fiziskās personas vārds, uzvārds) |  |

atbilst atzītās aizsardzības organizācijas prasībām, kas noteiktas Ministru kabineta 2015. gada 22. decembra noteikumos Nr. 745 "Atzīto aizsardzības organizāciju atzīšanas, sertificēšanas un darbības uzraudzības kārtība".

*Based on the examination of submitted documents and resolution of the Maritime Administration of Latvia, the Maritime Administration of Latvia assures that the organization mentioned in this Certificate corresponds to the requirements for Recognized Security Organization, which are included in Regulation of the Cabinet of Ministers No. 745 "The Procedures for Recognition, Certification and Supervision of Recognised Security Organisations" of 22 December 2015.*

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| --- | --- |
| Atzītā aizsardzības organizācija |  |
| *Recognized Security Organization* | (nosaukums/*name*) |
|  |  |
|  | (juridiskā adrese/*address*) |

|  |  |
| --- | --- |
| tiek sertificēta šādām darbībām |  |
| *Certificated activity* |  |
|  |  |

Atzītā aizsardzības organizācija ir atbildīga par sertificēto darbību atbilstību normatīvajos aktos noteiktajām prasībām./*Recognized Security Organization is responsible for conformity of certificated actions to the requirements for Recognized Security Organization.*

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| --- | --- | --- |
| **Atbilstības sertifikāta derīguma termiņš** |  |  |
| *Certificate is valid until* | (datums/*date*) |  |

|  |  |
| --- | --- |
| Valsts akciju sabiedrības "Latvijas Jūras administrācija" valdes priekšsēdētājs |  |
| *Chairman of the Board of Maritime Administration of Latvia* | (paraksts un tā atšifrējums/*signature and deciphering*) |

|  |  |
| --- | --- |
| **Izsniegts** |  |
| *Issued at* |  |

|  |  |  |
| --- | --- | --- |
| **Izsniegšanas datums** |  | Z. v.  *Seal or stamp* |
| *Date* |  |

Acting for the Minister for Transport,

Minister for the Interior Rihards Kozlovskis

**Annex 2**

Cabinet

Regulation No. 745

22 December 2015

**Requirements for the Obtaining the Certificate for Carrying out the Activities Referred to in Sub-paragraph 4.1, 4.2, 4.3, 4.5 or 4.7 of this Regulation**

In order to obtain a certificate of compliance for carrying out the activities referred to in Sub-paragraph 4.1, 4.2, 4.3, 4.5 or 4.7 of this Regulation, the applicant shall provide documentary evidence for its compliance with the following requirements:

1) appropriate knowledge in the relevant aspects of security;

2) sufficient knowledge of ship and port operations, including knowledge of ship design and construction, if the applicant provides services related to ships, and knowledge of port infrastructure and functions, if the applicant provides services related to port facilities;

3) ability to assess the likely security risks that could occur during ship and port facility operations, including in the interaction between the ship and the port and determine how to minimise such risks;

4) ability to maintain and improve the level of the appropriate knowledge of its personnel;

5) ability to monitor the reliability of its personnel;

6) ability to implement appropriate measures to avoid unauthorised disclosure of or access to sensitive materials in the field of security;

7) knowledge of the requirements of Chapter XI-2 of the SOLAS Convention and the ISPS Code and the relevant national and international legal acts and security requirements;

8) knowledge of the current security threats and patterns;

9) knowledge of recognition and detection of weapons, dangerous substances and devices;

10) knowledge of recognition, on a non-discriminatory basis, of characteristics and behavioural patterns of persons who are likely to threaten security;

11) knowledge of techniques used to circumvent security measures;

12) knowledge of security and surveillance equipment and systems, and also their operational limitations.

Acting for the Minister for Transport,

Minister for the Interior Rihards Kozlovskis

**Annex 3**

Cabinet

Regulation No. 745

22 December 2015

**Requirements for the Obtaining the Certificate for Carrying out the Activities Referred to in Sub-paragraph 4.4 or 4.6 of this Regulation**

In order to obtain a certificate of compliance for carrying out the activities referred to in Sub-paragraph 4.4 or 4.6 of this Regulation, the applicant shall provide documentary evidence for its compliance with the following requirements:

1) competence in the relevant aspects of port security;

2) appropriate knowledge of port operations, including knowledge of port design and functions;

3) appropriate knowledge of other operations important for security that potentially affect the security of the port;

4) ability to assess the potential port security threats;

5) ability to maintain and improve competence of the port security personnel;

6) ability to monitor the compliance of the personnel during the entire period after the receipt of the certificate of compliance;

7) ability to maintain appropriate measures to avoid unauthorised disclosure of or access to information that it sensitive for security;

8) knowledge of relevant national and international legal acts and security measures;

9) knowledge of current security threats and patterns;

10) ability to recognise and detect weapons, dangerous substances and devices;

11) ability to recognise on a non-discriminatory basis, characteristics and behavioural patterns of persons who are likely to threaten security;

12) knowledge of methods used to circumvent security measures;

13) knowledge of security and surveillance equipment and systems as well as their operational limitations.

Acting for the Minister for Transport,

Minister for the Interior Rihards Kozlovskis

**Annex 4**

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**Additional Requirements for the Obtaining the Certificate for Carrying out the Activities Referred to in Sub-paragraph 4.4 or 4.5 of this Regulation**

Such person may be the responsible person of a recognised security organisation, who meets the following requirements:

1) it has Latvian citizenship;

2) it has not been punished for an intentional criminal offence;

3) it has not been punished for an intentional criminal offence, releasing from punishment;

4) it has not been held criminally liable for an intentional criminal offence, except in cases where the person is held criminally liable, but the criminal proceedings had been terminated on exoneration basis;

5) it is not under guardianship;

6) it has not been has been a staff employee or a supernumerary, an agent, resident or safe-house keeper of the U.S.S.R., Latvian S.S.R. or a foreign state;

7) it is not or has not been a participant (member) of organisations, which are prohibited by the laws of the Republic of Latvia, decisions of the Supreme Council, or adjudications of a court, after the prohibition of such organisations;

8) it has received the opinion of a narcologist and a psychiatrist that he or she has not been diagnosed as having mental disorders or addiction to alcohol, narcotic, psychotropic or toxic substances.

Acting for the Minister for Transport,

Minister for the Interior Rihards Kozlovskis