

Regulation (EU) 2017/352 of the European Parliament and of the Council
of 15 February 2017 establishing a framework for the provision of port services
and common rules on the financial transparency of ports (Text with EEA relevance)

CHAPTER II

PROVISION OF PORT SERVICES

Article 4

Minimum requirements for the provision of port services

- 1 The managing body of the port, or the competent authority, may require providers of port services, including subcontractors, to comply with minimum requirements for the performance of the corresponding port service.
- 2 The minimum requirements provided for in paragraph 1 may only relate to:
 - a the professional qualifications of the provider of port services, its personnel or the natural persons who actually and continuously manage the activities of the provider of port services;
 - b the financial capacity of the provider of port services;
 - c the equipment needed to provide the relevant port service in normal and safe conditions and the capacity to maintain this equipment at the required level;
 - d the availability of the relevant port service to all users, at all berths and without interruptions, day and night, throughout the year;
 - e compliance with requirements on maritime safety or the safety and security of the port or access to it, its installations, equipment and workers and other persons;
 - f compliance with local, national, Union and international environmental requirements;
 - g compliance with obligations in the field of social and labour law that apply in the Member State of the port concerned, including the terms of applicable collective agreements, manning requirements and requirements relating to hours of work and hours of rest for seafarers, and with applicable rules on labour inspections;
 - h the good repute of the port service provider, as determined in accordance with any applicable national law on good repute, taking into consideration any compelling grounds to doubt the reliability of the provider of port services.
- 3 Without prejudice to paragraph 4, where a Member State deems that it is necessary to impose a flag requirement in order to ensure full compliance with point (g) of paragraph 2 for waterborne vessels predominantly used for towage or mooring operations in ports located on its territory, it shall inform the Commission of its decision prior to the publication of the contract notice or, in the absence of a contract notice, prior to imposing a flag requirement.
- 4 The minimum requirements shall:
 - a be transparent, objective, non-discriminatory, proportionate, and relevant to the category and nature of the port service concerned;
 - b be complied with until the right to provide a port service expires.

*Status: This is the original version as it was originally adopted in the EU. This
legislation may since have been updated - see the latest available (revised) version*

5 Where the minimum requirements include specific knowledge of local conditions, the managing body of the port, or the competent authority, shall ensure that there is adequate access to information, under transparent and non-discriminatory conditions.

6 In the cases provided for in paragraph 1, the managing body of the port, or the competent authority, shall publish the minimum requirements referred to in paragraph 2 and the procedure for the granting of the right to provide port services under those requirements by 24 March 2019 or, in the case of minimum requirements that are to apply after that date, at least three months before the date from which those requirements are to apply. The managing body of the port, or the competent authority, shall, in advance, inform providers of port services of any change in the criteria and of the procedure.

7 This Article applies without prejudice to Article 7.