

Council Directive 96/98/EC of 20 December 1996 on marine equipment (repealed)

*Article 1*

The purpose of this Directive shall be to enhance safety at sea and the prevention of marine pollution through the uniform application of the relevant international instruments relating to equipment listed in Annex A to be placed on board ships for which safety certificates are issued by or on behalf of Member States pursuant to international conventions and to ensure the free movement of such equipment within the Community.

*Article 2*

For the purposes of this Directive:

- (a) ‘conformity-assessment procedures’ shall mean the procedures set out in Article 10 and Annex B;
- (b) ‘equipment’ shall mean items listed in Annexes A.1 and A.2 which must be placed on board a ship for use in order to comply with international instruments or are voluntarily placed on board for use, and for which the approval of the flag State administration is required according to international instruments;
- [<sup>F1</sup>(c) ‘radiocommunications equipment’ shall mean equipment required by Chapter IV of the 1974 SOLAS Convention, [<sup>F2</sup>in its up-to-date version], and survival craft two-way VHF radiotelephone apparatus required by Regulation III/6.2.1 of the same Convention;]
- (d) ‘international conventions’ shall mean:
- [<sup>X1</sup>the 1966 International Convention] on Load Lines (LL66),
  - the 1972 Convention on the International Regulations for Preventing Collisions at Sea (Colreg),
  - the 1973 International Convention for the Prevention of Pollution from Ships (Marpol) and
  - the 1974 International Convention for the Safety of Life at Sea (Solas),
- together with their Protocols and the amendments thereto [<sup>F2</sup>in their up-to-date version];
- (e) ‘international instruments’ shall mean the relevant international conventions, the relevant resolutions and circulars of the International Maritime Organization (IMO), and the relevant international testing standards;
- (f) ‘mark’ shall mean the symbol referred to in Article 11 and set out in Annex D;
- (g) ‘notified body’ shall mean an organization designated by the competent national administration of a Member State in accordance with Article 9;
- (h) ‘placed on board’ shall mean installed or placed on board a ship;
- (i) ‘safety certificates’ shall mean the certificates issued by or on behalf of Member States in accordance with international conventions;
- (j) ‘ship’ shall mean a ship falling within the scope of international conventions; warships shall not be covered;
- (k) ‘Community ship’ shall mean a ship for which safety certificates are issued by or on behalf of Member States under international conventions. This definition shall

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- (l) ‘new ship’ shall mean a ship the keel of which is laid or which is at a similar stage of construction on or after the date of the entry into force of this Directive. For the purposes of this definition, ‘a similar stage of construction’ shall mean the stage at which:
- (i) construction identifiable with a specific ship begins
  - and
  - (ii) assembly of that ship has commenced, comprising at least 50 tonnes or 1 % of the estimated mass of all structural material, whichever is less;
- (m) ‘existing ship’ shall mean a ship which is not a new ship;
- (n) ‘testing standards’ shall mean the standards set by
- the International Maritime Organization (IMO),
  - the International Organization for Standardization (ISO),
  - the International Electrotechnical Commission (IEC),
  - the European Committee for Standardization (CEN),
  - the European Committee for Electrotechnical Standardization (Cenelec)
- and
- the European Telecommunication Standards Institute (ETSI) [F2; in their up-to-date version], and established in accordance with the relevant international conventions and with the relevant IMO resolutions and circulars to define testing methods and test results, but only in the form referred to in Annex A;
- (o) ‘type-approval’ shall mean the procedures for evaluating equipment produced in accordance with the appropriate testing standards and the issue of the appropriate certificate.

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#### **Editorial Information**

- X1** Substituted by [Corrigendum to Council Directive 96/98/EC of 20 December 1996 on marine equipment \(Official Journal of the European Communities L 46 of 17 February 1997\)](#).

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#### **Textual Amendments**

- F1** Substituted by [Commission Directive 98/85/EC of 11 November 1998 amending Council Directive 96/98/EC on marine equipment \(Text with EEA relevance\)](#).
- F2** Substituted by [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 \(Text with EEA relevance\)](#).

### *Article 3*

- 1 This Directive shall apply to equipment for use on board:
- a a new Community ship whether or not the ship is situated within the Community at the time of construction;
  - b an existing Community ship
    - where such equipment was not previously carried on board

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or

— where equipment which was previously carried on board the ship is replaced, except where international conventions permit otherwise,

whether or not the ship is situated within the Community when the equipment is placed on board.

2 This Directive shall not apply to equipment which on the date of the entry into force of this Directive has already been placed on board a ship.

3 Notwithstanding the fact that the equipment referred to in paragraph 1 may fall within the scope of Directives other than this Directive for the purpose of free movement, and in particular Council Directives 89/336/EEC of 3 May 1989 on the approximation of the laws of the Member States relating to electromagnetic compatibility<sup>(1)</sup> and 89/686/EEC of 21 December 1989 on the approximation of the laws of the Member States relating to personal protective equipment<sup>(2)</sup>, that equipment shall be subject only to this Directive, to the exclusion of all others for those purposes.

#### *Article 4*

Each Member State or the organizations acting on its behalf shall ensure, when issuing or renewing the relevant safety certificates, that the equipment on board Community ships for which it issues safety certificates complies with the requirements of this Directive.

#### *Article 5*

1 Equipment listed in Annex A.1 that is placed on board a Community ship on or after the date referred to in the second subparagraph of Article 20 (1) shall meet the applicable requirements of the international instruments referred to in that Annex.

2 The compliance of equipment with the applicable requirements of the international conventions and of the relevant resolutions and circulars of the International Maritime Organization shall be demonstrated solely in accordance with the relevant testing standards and the conformity-assessment procedures referred to in Annex A.1. For items listed in Annex A.1, where both IEC and ETSI testing standards are given, those standards shall be alternatives and a manufacturer or his authorized representative established within the Community may determine which of them is to be used.

3 Equipment listed in Annex A.1 and manufactured before the date referred to in paragraph 1 may also be placed on the market and on board a Community ship the certificates of which were issued by or on behalf of a Member State in accordance with international conventions during the two years following that date if it was manufactured in accordance with procedures for type-approval already in force within the territory of that Member State before the date of the adoption of this Directive.

#### *Article 6*

1 No Member State shall prohibit the placing on the market or the placing on board a Community ship of equipment referred to in Annex A.1 which bears the mark or for other reasons complies with this Directive or refuse to issue or renew the safety certificates relating thereto.

2 A radio licence shall be issued in accordance with the international radio regulations by the competent authority before the relevant safety certificate is issued.

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### Article 7

1 After the date of the entry into force of this Directive, the Community shall submit a request to the IMO or to the European standardization organizations, as appropriate, for the establishment of standards, including detailed testing standards, for the equipment listed in Annex A.2.

2 The request referred to in paragraph 1 shall be made:

- by the Presidency of the Council and by the Commission, when it is submitted to the IMO,
- by the Commission, in accordance with Council Directive 83/189/EEC of 28 March 1983 laying down a procedure for the provision of information in the field of technical standards and regulations<sup>(9)</sup>, when it is submitted to the European standardization organizations. The mandates issued by the Commission shall aim for the development of international standards through procedures for cooperation between the European bodies and their counterparts at international level.

3 Member States shall do their utmost to ensure that the international organizations, including the IMO, develop those standards expeditiously.

4 The Commission shall monitor the development of the testing standards on a regular basis.

5 Should the international organizations, including the IMO, fail or refuse to adopt appropriate testing standards for a specific item of equipment within a reasonable time, standards based on the work of the European standardization organizations may be adopted in accordance with the procedure laid down in Article 18.

[<sup>F35</sup> Should the international organisations, including the IMO, fail or refuse to adopt appropriate testing standards for a specific item of equipment within a reasonable time, standards based on the work of the European standardisation organisations may be adopted. That measure, designed to amend non-essential elements of this Directive by supplementing it, shall be adopted in accordance with the regulatory procedure with scrutiny referred to in Article 18(3).

6 When the testing standards referred to in paragraphs 1 or 5 are adopted or enter into force, as appropriate, for a specific item of equipment, that equipment may be transferred from Annex A.2 to Annex A.1. That measure, designed to amend non-essential elements of this Directive by supplementing it, shall be adopted in accordance with the regulatory procedure with scrutiny referred to in Article 18(3).

Article 5 shall apply to that equipment from the date of that transfer.;

#### Textual Amendments

**F3** Substituted by [Regulation \(EC\) No 596/2009 of the European Parliament and of the Council of 18 June 2009 adapting a number of instruments subject to the procedure referred to in Article 251 of the Treaty to Council Decision 1999/468/EC with regard to the regulatory procedure with scrutiny Adaptation to the regulatory procedure with scrutiny — Part Four.](#)

### Article 8

1 In the case of a new ship which, irrespective of its flag, is not registered in a Member State but is to be transferred to the register of a Member State, such a ship shall, on transfer, be subject to inspection by the receiving Member State to verify that the actual condition of

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its equipment corresponds to its safety certificates and either complies with this Directive and bears the mark or is equivalent, to the satisfaction of that Member State's administration, to equipment type-approval in accordance with this Directive.

2 Unless the equipment either bears the mark or that administration considers it to be equivalent, it shall be replaced.

3 Equipment which is considered equivalent pursuant to this Article shall be given a certificate by the Member State which shall at all times be carried with the equipment and which gives the flag Member State's permission for the equipment to be placed on board the ship and imposes any restrictions or lays down any provisions relating to the use of the equipment.

4 In the case of radiocommunications equipment, the flag State administration shall require that such equipment does not unduly affect the requirements of the radio-frequency spectrum.

#### *Article 9*

1 Member States shall notify the Commission and the other Member States of the bodies which they have designated to carry out the procedures for in Article 10 together with the specific tasks which those notified bodies have been designated to carry out and the identification numbers assigned to them beforehand by the Commission. Each organization shall submit to the Member State which intends to designate it complete information concerning, and evidence of compliance with the criteria laid down in Annex C.

2 At least once every two years each Member State shall cause an audit of the duties its notified bodies are undertaking on its behalf to be carried out by the administration or by an impartial external organization appointed by the administration. That audit shall ensure that each notified body continues to comply with the criteria laid down in Annex C.

3 A Member State which has designated a body shall withdraw its designation if it finds that that body no longer complies with the criteria laid down in Annex C. It shall immediately inform the Commission and the other Member States accordingly.

#### *Article 10*

1 The conformity-assessment procedure, details of which are listed in Annex B, shall be:

(i) EC type-examination (module B) and, before equipment is placed on the market and according to the choice made by the manufacturer or his authorized representative established within the Community from the possibilities indicated in Annex A.1, all equipment shall be subject to:

- (a) the EC declaration of conformity to type (module C);
  - (b) the EC declaration of conformity to type (production-quality assurance) (module D);
  - (c) the EC declaration of conformity to type (product-quality assurance) (module E);
  - (d) the EC declaration of conformity to type (product verification) (module F);
- or

(ii) EC full-quality assurance (module H).

2 The declaration of conformity to type shall be in written form and shall give the information specified in Annex B.

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3 Where sets of equipment are produced individually or in small quantities and not in series or in mass, the conformity-assessment procedure may be the EC unit verification (module G).

4 The Commission shall keep an up-to-date list of approved equipment and applications withdrawn or refused and shall make it available to interested parties.

#### *Article 11*

1 Equipment referred to in Annex A.1 which complies with the relevant international instruments and is manufactured in accordance with the conformity-assessment procedures shall have the mark affixed to it by the manufacturer or his authorized representative established within the Community.

2 The mark shall be followed by the identification number of the notified body which has performed the conformity-assessment procedure, if that body is involved in the production-control phase, and by the last two digits of the number of the year in which the mark is affixed. The identification number of the notified body shall be affixed under its responsibility either by the body itself or by the manufacturer or his authorized representative established within the Community.

3 The form of the mark to be used shall be as set out in Annex D.

4 The mark shall be affixed to the equipment or to its data plate so as to be visible, legible and indelible throughout the anticipated useful life of the equipment. However, where that is not possible or not warranted on account of the nature of the piece of equipment, it shall be affixed to the packaging of the product, to a label or to a leaflet.

5 No marks or inscriptions which are likely to mislead third parties with regard to the meaning or the graphics of the mark referred to in this Directive shall be affixed.

6 The mark shall be affixed at the end of the production phase.

#### *Article 12*

1 Notwithstanding Article 6, each Member State may take the measures necessary to ensure that sample checks are carried out on equipment bearing the mark which is on its market and which has not yet been placed on board, in order to ensure that it complies with this Directive. Sample checks which are not provided for in the modules for conformity assessment in Annex B shall be carried out at the expense of the Member State.

2 Notwithstanding Article 6, after the installation of equipment which complies with this Directive on board a Community ship, evaluation by that ship's flag State administration of that equipment shall be permitted when operational on-board performance tests are required by international instruments for safety and/or pollution-prevention purposes, provided that they do not duplicate the conformity-assessment procedures already carried out. The flag State administration may require the manufacturer of the equipment, his authorized representative established within the Community or the person responsible for marketing the equipment within the Community to provide the inspection/testing reports.

#### *Article 13*

1 Where a Member State ascertains by inspection or otherwise that, notwithstanding the fact that it bears the mark, a piece of equipment referred to in Annex A.1, when correctly installed, maintained and used for its intended purpose, may compromise the health and/or safety of the crew, the passengers or, where applicable, other persons, or adversely<sup>X2</sup> affect the marine environment, it shall take all appropriate interim measures to withdraw that piece of equipment

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from the market] or prohibit or restrict its being placed on the market or being used on board a ship for which it issues the safety certificates. The Member State shall immediately inform the other Member States and the Commission of that measure and indicate the reasons for its decision and, in particular, whether non-compliance with this Directive is due to:

- a failure to comply with Article 5 (1) and (2);
- b incorrect application of the testing standards referred to in Article 5 (1) and (2); or
- c shortcomings in the testing standards themselves.

2 The Commission shall enter into consultation with the parties concerned as soon as possible. Where, after such consultation, the Commission finds that:

- [<sup>F3</sup>the measures are justified, it shall immediately so inform the Member State which took the initiative and the other Member States; where the decision referred to in paragraph 1 is attributed to shortcomings in the testing standards, the Commission shall, after consulting the parties concerned, bring the matter before the Committee referred to in Article 18(1) within two months if the Member State which has taken the decision intends to maintain it, and shall initiate the regulatory procedure referred to in Article 18(2);]
- the measures are unjustified, it shall immediately so inform the Member State which took the initiative and the manufacturer or his authorized representative established within the Community.

3 Where a non-complying piece of equipment bears the mark, the appropriate measures shall be taken by the Member State which has authority over whomsoever affixed the mark; that Member State shall inform the Commission and the other Member States of the measures it has taken.

4 The Commission shall ensure that the Member States are kept informed of the progress and outcome of this procedure.

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**Editorial Information**

- X2** Substituted by [Corrigendum to Council Directive 96/98/EC of 20 December 1996 on marine equipment \(Official Journal of the European Communities L 46 of 17 February 1997\)](#).

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**Textual Amendments**

- F3** Substituted by [Regulation \(EC\) No 596/2009 of the European Parliament and of the Council of 18 June 2009 adapting a number of instruments subject to the procedure referred to in Article 251 of the Treaty to Council Decision 1999/468/EC with regard to the regulatory procedure with scrutiny Adaptation to the regulatory procedure with scrutiny — Part Four](#).

*Article 14*

1 Notwithstanding the provisions of Article 5, in exceptional circumstances of technical innovation, the flag State administration may permit equipment which does not comply with the conformity-assessment procedures to be placed on board a Community ship if it is established by trial or otherwise to the satisfaction of the flag State administration that such equipment is at least as effective as equipment which does comply with the conformity-assessment procedures.

In the case of radiocommunications equipment, the flag State administration shall require that such equipment does not unduly affect the requirements of the radio-frequency spectrum.

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2 Such trial procedures shall in no way discriminate between equipment produced in the flag Member State and equipment produced in other States.

3 Equipment covered by this Article shall be given a certificate by the flag Member State which shall at all times be carried with the equipment and which gives the flag Member State's permission for the equipment to be placed on board the ship and imposes any restrictions or lays down any provisions relating to the use of the equipment.

4 Where a Member State allows equipment covered by this Article to be placed on board a Community ship, that Member State shall forthwith communicate the particulars thereof together with the reports of all relevant trials, assessments and conformity-assessment procedures to the Commission and the other Member States.

[<sup>F35</sup> Equipment such as is referred to in paragraph 1 shall be added to Annex A.2. That measure, designed to amend non-essential elements of this Directive, shall be adopted in accordance with the regulatory procedure with scrutiny referred to in Article 18(3).]

6 Where a ship with equipment on board which is covered by paragraph 1 is transferred to another Member State, the receiving flag Member State may undertake the measures necessary, which may include tests and practical demonstrations, to ensure that the equipment is at least as effective as equipment which does comply with the conformity-assessment procedures.

#### **Textual Amendments**

**F3** Substituted by [Regulation \(EC\) No 596/2009 of the European Parliament and of the Council of 18 June 2009 adapting a number of instruments subject to the procedure referred to in Article 251 of the Treaty to Council Decision 1999/468/EC with regard to the regulatory procedure with scrutiny Adaptation to the regulatory procedure with scrutiny — Part Four.](#)

#### *Article 15*

1 Notwithstanding Article 5, a flag State administration may permit equipment which does not comply with the conformity-assessment procedures or is not covered by Article 14 to be placed on board a Community ship for reasons of testing or evaluation, but only when the following conditions are complied with:

- a the equipment must be given a certificate by the flag Member State which must at all times be carried with the equipment and which gives the flag Member State permission for the equipment to be placed on board the Community ship and imposes any restrictions or lays down any provisions relating to the use of the equipment;
- b the permission must be limited to a short period of time;
- c the equipment must not be relied on in place of equipment which meets the requirements of this Directive and must not replace such equipment, which must remain on board the Community ship in working and ready for immediate use.

2 In the case of radiocommunications equipment, the flag State administration shall require that such equipment does not unduly affect the requirements of the radio-frequency spectrum.

#### *Article 16*

1 Where equipment needs to be replaced in a port outwith the Community and in exceptional circumstances which shall be duly justified to the flag State administration where it is not practicable in terms of reasonable time, delay and cost to place on board equipment



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which is EC type-approved, other equipment may be placed on board in accordance with the following procedure:

- a the equipment shall be accompanied by documentation issued by a recognized organization equivalent to a notified body, where an agreement has been concluded between the Community and the third country concerned on the mutual recognition of such organizations;
- b should it prove impossible to comply with (a), equipment accompanied by documentation issued by a Member State of the IMO which is a party to the relevant conventions, certifying compliance with the relevant IMO requirements, may be placed on board, subject to paragraphs 2 and 3.

2 The flag State administration shall be informed at once of the nature and characteristics of such other equipment.

3 The flag State administration shall, at the earliest opportunity, ensure that the equipment referred to in paragraph 1, along with its testing documentation, complies with the relevant requirements of the international instruments and of this Directive.

4 In the case of radiocommunications equipment, the flag State administration shall require that such equipment does not unduly affect the requirements of the radio-frequency spectrum.

#### *[<sup>F2</sup>Article 17*

[<sup>F3</sup>This Directive may be amended in order:

- (a) to apply subsequent amendments of international instruments for the purposes of this Directive;
- (b) to update Annex A, both by introducing new equipment and by transferring equipment from Annex A.2 to Annex A.1 and vice versa;
- (c) to add the possibility of using modules B + C and module H for equipment listed in Annex A.1, and by amending the columns for the conformity assessment modules;
- (d) to include other standardisation organisations in the definition of ‘testing standards’ in Article 2.

Those measures, designed to amend non-essential elements of this Directive, shall be adopted in accordance with the regulatory procedure with scrutiny referred to in Article 18(3).;]

The conventions and testing standards referred to in points (c), (d) and (n) of Article 2 shall be understood without prejudice to any measures taken in application of Article 5 of 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)<sup>(4)</sup>.]

#### **Textual Amendments**

- F2** Substituted by [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 \(Text with EEA relevance\)](#).
- F3** Substituted by [Regulation \(EC\) No 596/2009 of the European Parliament and of the Council of 18 June 2009 adapting a number of instruments subject to the procedure referred to in Article 251 of](#)

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the Treaty to Council Decision 1999/468/EC with regard to the regulatory procedure with scrutiny  
Adaptation to the regulatory procedure with scrutiny — Part Four.

### *[<sup>F3</sup> Article 18*

1 The Commission shall be assisted by the Committee on Safe Seas and the Prevention of Pollution from Ships (COSS) created by Article 3 of Regulation (EC) No 2099/2002 of the European Parliament and of the Council<sup>(5)</sup>.

2 Where reference is made to this paragraph, Articles 5 and 7 of Council Decision 1999/468/EC<sup>(6)</sup> shall apply, having regard to the provisions of Article 8 thereof.

The period laid down in Article 5(6) of Decision 1999/468/EC shall be set at two months.

3 Where reference is made to this paragraph, Article 5a(1) to (4) and Article 7 of Decision 1999/468/EC shall apply, having regard to the provisions of Article 8 thereof.]

#### **Textual Amendments**

**F3** Substituted by Regulation (EC) No 596/2009 of the European Parliament and of the Council of 18 June 2009 adapting a number of instruments subject to the procedure referred to in Article 251 of the Treaty to Council Decision 1999/468/EC with regard to the regulatory procedure with scrutiny  
Adaptation to the regulatory procedure with scrutiny — Part Four.

### *Article 19*

The Member States shall offer each other mutual assistance with a view to the effective implementation and enforcement of this Directive.

### *Article 20*

1 Member States shall adopt and publish the laws, regulations and administrative provisions necessary to comply with this Directive no later than 30 June 1998.

They shall apply those measures from 1 January 1999.

When Member States adopt the measures referred to in the first subparagraph, these shall contain references to this Directive or shall be accompanied by such references on their official publication. The methods of making such references shall be laid down by the Member States.

2 The Member States shall immediately communicate to the Commission the texts of the provisions of national law which they adopt in the field governed by this Directive. The Commission shall inform the other Member States thereof.

### *Article 21*

This Directive shall enter into force on the day of its publication in the *Official Journal of the European Communities*.

### *Article 22*

This Directive is addressed to the Member States.

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- (1) OJ No L 139, 23. 5. 1989, p. 19. Directive as last amended by Directive 93/68/EEC (OJ No L 220, 31. 8. 1993, p. 1).
- (2) OJ No L 399, 30. 12. 1989, p. 18. Directive as last amended by Directive 93/95/EEC (OJ No L 276, 9. 11. 1993, p. 11).
- (3) OJ No L 109, 26. 4. 1983, p. 8. Directive as last amended by the 1994 Act of Accession.
- (4) [<sup>F2</sup>OJ L 324, 29.11.2002, p. 1.]
- (5) [<sup>F3</sup>OJ L 324, 29.11.2002, p. 1.]
- (6) OJ L 184, 17.7.1999, p. 23..]

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#### **Textual Amendments**

- F2** Substituted by [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 (Text with EEA relevance).
- F3** Substituted by [Regulation \(EC\) No 596/2009](#) of the European Parliament and of the Council of 18 June 2009 adapting a number of instruments subject to the procedure referred to in Article 251 of the Treaty to Council Decision 1999/468/EC with regard to the regulatory procedure with scrutiny Adaptation to the regulatory procedure with scrutiny — Part Four.