

Directive 2008/106/EC of the European Parliament and of the Council of 19 November 2008 on the minimum level of training of seafarers (recast) (Text with EEA relevance)

*Article 1*

**Definitions**

For the purposes of this Directive:

1. 'master' means the person having command of a ship;
2. 'officer' means a member of the crew, other than the master, designated as such by national law or regulations or, in the absence of such designation, by collective agreement or custom;
3. 'deck officer' means an officer qualified in accordance with the provisions of Chapter II of Annex I;
4. 'chief mate' means the officer next in rank to the master upon whom the command of the ship will fall in the event of the incapacity of the master;
5. 'engineer officer' means an officer qualified in accordance with the provisions of Chapter III of Annex I;
6. 'chief engineer officer' means the senior engineer officer responsible for the mechanical propulsion and the operation and maintenance of the mechanical and electrical installations of the ship;
7. 'second engineer officer' means the engineer officer next in rank to the chief engineer officer upon whom the responsibility for the mechanical propulsion and the operation and maintenance of the mechanical and electrical installations of the ship will fall in the event of the incapacity of the chief engineer officer;
8. 'assistant engineer officer' means a person under training to become an engineer officer and designated as such by national law or regulations;
9. 'radio operator' means a person holding an appropriate certificate issued or recognised by the competent authorities under the provisions of the Radio Regulations;
10. 'rating' means a member of the ship's crew other than the master or an officer;
11. 'seagoing ship' means a ship other than those which navigate exclusively in inland waters or in waters within, or closely adjacent to, sheltered waters or areas where port regulations apply;
12. '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 shall be regarded as a ship flying the flag of a third country;
13. 'near-coastal voyages' means voyages in the vicinity of a Member State as defined by that Member State;

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14. 'propulsion power' means the total maximum continuous rated output power in kilowatts of all of a ship's main propulsion machinery which appears on the ship's certificate of registry or other official document;
15. 'oil-tanker' means a ship constructed and used for the carriage of petroleum and petroleum products in bulk;
16. 'chemical tanker' means a ship constructed or adapted and used for the carriage in bulk of any liquid product listed in Chapter 17 of the International Bulk Chemical Code, in its up-to-date version;
17. 'liquefied-gas tanker' means a ship constructed or adapted and used for the carriage in bulk of any liquefied gas or other product listed in Chapter 19 of the International Gas Carrier Code, in its up-to-date version;
18. [<sup>F1</sup>'Radio Regulations' means the radio regulations annexed to, or regarded as being annexed to, the International Telecommunication Convention, as amended;
19. 'passenger ship' means a ship as defined in the International Convention for the Safety of Life at Sea, 1974 (SOLAS 74), as amended;]
20. 'fishing vessel' shall mean a vessel used for catching fish or other living resources of the sea;
21. 'STCW Convention' means the International Maritime Organisation (IMO) Convention on Standards of Training, Certification and Watchkeeping for Seafarers, 1978, as it applies to the matters concerned taking into account the transitional provisions of Article VII and Regulation I/15 of the Convention and including, where appropriate, the applicable provisions of the STCW Code, all being applied in their up-to-date versions;
22. 'radio duties' includes, as appropriate, watchkeeping and technical maintenance and repairs conducted in accordance with the Radio Regulations, the International Convention for the Safety of Life at Sea, 1974 (SOLAS 74) and, at the discretion of each Member State, the relevant recommendations of the IMO, in their up-to-date versions;
23. 'ro-ro passenger ship' means a passenger ship with ro-ro cargo spaces or special-category spaces as defined in the SOLAS 74, in its up-to-date version;
24. [<sup>F1</sup>'STCW Code' means the Seafarers' Training, Certification and Watchkeeping (STCW) Code as adopted by the 1995 Conference resolution 2, in its up-to-date version;]
25. 'function' means a group of tasks, duties and responsibilities, as specified in the STCW Code, necessary for ship operation, safety of life at sea or protection of the marine environment;
26. 'company' means the owner of the ship or any other organisation or person such as the manager or the bareboat charterer who has assumed the responsibility for operation of the ship from the shipowner and who, on assuming such responsibility, has agreed to take over all the duties and responsibilities imposed on the company by this Directive;
27. [<sup>F2</sup>. . . .]
28. [<sup>F1</sup>'seagoing service' means service on board a ship relevant to the issue or revalidation of a certificate of competency, certificate of proficiency or other qualification;]

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29. ‘approved’ means approved by a Member State in accordance with this Directive;
30. ‘third country’ means any country which is not a Member State;
31. ‘month’ means a calendar month or 30 days made up of periods of less than one month<sup>[F1];</sup>
32. <sup>[F3]</sup>‘GMDSS radio operator’ means a person qualified in accordance with Chapter IV of Annex I;
33. ‘ISPS Code’ means the International Ship and Port Facility Security Code adopted on 12 December 2002, by resolution 2 of the Conference of Contracting Governments to the SOLAS 74, in its up-to-date version;
34. ‘ship security officer’ means the person on board a ship, accountable to the master, designated by the company as responsible for the security of the ship including implementation and maintenance of the ship security plan and liaison with the company security officer and port facility security officers;
35. ‘security duties’ include all security tasks and duties on board ships as defined by Chapter XI/2 of the SOLAS 74, as amended, and by the ISPS Code;
36. ‘certificate of competency’ means a certificate issued and endorsed for masters, officers and GMDSS radio operators in accordance with Chapters II, III, IV or VII of Annex I, and entitling the lawful holder thereof to serve in the capacity and perform the functions involved at the level of responsibility specified therein;
37. ‘certificate of proficiency’ means a certificate, other than a certificate of competency, issued to a seafarer stating that the relevant requirements of training, competencies or sea-going service in this Directive have been met;
38. ‘documentary evidence’ means documentation, other than a certificate of competency or certificate of proficiency, used to establish that the relevant requirements in this Directive have been met;
39. ‘electro-technical officer’ means an officer qualified in accordance with Chapter III of Annex I;
40. ‘able seafarer deck’ means a rating qualified in accordance with Chapter II of Annex I;
41. ‘able seafarer engine’ means a rating qualified in accordance with Chapter III of Annex I;
42. ‘electro-technical rating’ means a rating qualified in accordance with Chapter III of Annex I<sup>[F4];</sup>
43. <sup>[F5]</sup>‘host Member State’ means the Member State in which seafarers seek acceptance or recognition of their certificates of competency, certificates of proficiency or documentary evidence;
44. ‘IGF Code’ means the International Code of Safety for Ships using Gases or other Low-flashpoint Fuels, as defined in SOLAS 74 Regulation II-1/2.29;
45. ‘Polar Code’ means the International Code for Ships Operating in Polar Waters, as defined in SOLAS 74 Regulation XIV/1.1;
46. ‘Polar waters’ means Arctic waters and/or the Antarctic area, as defined in SOLAS 74 Regulations XIV/1.2 to XIV/1.4.]

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### Textual Amendments

- F1** Substituted by [Directive 2012/35/EU of the European Parliament and of the Council of 21 November 2012 amending Directive 2008/106/EC on the minimum level of training of seafarers \(Text with EEA relevance\)](#).
- F2** Deleted by [Directive 2012/35/EU of the European Parliament and of the Council of 21 November 2012 amending Directive 2008/106/EC on the minimum level of training of seafarers \(Text with EEA relevance\)](#).
- F3** Inserted by [Directive 2012/35/EU of the European Parliament and of the Council of 21 November 2012 amending Directive 2008/106/EC on the minimum level of training of seafarers \(Text with EEA relevance\)](#).
- F4** Substituted by [Directive \(EU\) 2019/1159 of the European Parliament and of the Council of 20 June 2019 amending Directive 2008/106/EC on the minimum level of training of seafarers and repealing Directive 2005/45/EC on the mutual recognition of seafarers' certificates issued by the Member States \(Text with EEA relevance\)](#).
- F5** Inserted by [Directive \(EU\) 2019/1159 of the European Parliament and of the Council of 20 June 2019 amending Directive 2008/106/EC on the minimum level of training of seafarers and repealing Directive 2005/45/EC on the mutual recognition of seafarers' certificates issued by the Member States \(Text with EEA relevance\)](#).

## Article 2

### Scope

[<sup>F41</sup> This Directive applies to the seafarers mentioned in this Directive serving on board seagoing ships flying the flag of a Member State with the exception of:]

- a warships, naval auxiliaries or other ships owned or operated by a Member State and engaged only on government non-commercial service;
- b fishing vessels;
- c pleasure yachts not engaged in trade;
- d wooden ships of primitive build.

[<sup>F52</sup> Article 5b applies to seafarers who hold a certificate issued by a Member State, regardless of their nationality.]

### Textual Amendments

- F4** Substituted by [Directive \(EU\) 2019/1159 of the European Parliament and of the Council of 20 June 2019 amending Directive 2008/106/EC on the minimum level of training of seafarers and repealing Directive 2005/45/EC on the mutual recognition of seafarers' certificates issued by the Member States \(Text with EEA relevance\)](#).
- F5** Inserted by [Directive \(EU\) 2019/1159 of the European Parliament and of the Council of 20 June 2019 amending Directive 2008/106/EC on the minimum level of training of seafarers and repealing Directive 2005/45/EC on the mutual recognition of seafarers' certificates issued by the Member States \(Text with EEA relevance\)](#).

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### Article 3

#### Training and certification

[<sup>F1</sup> Member States shall take the measures necessary to ensure that seafarers serving on ships as referred to in Article 2 are trained as a minimum in accordance with the requirements of the STCW Convention, as laid down in Annex I to this Directive, and hold certificates as defined in points (36) and (37) of Article 1, and/or documentary evidence as defined in point (38) of Article 1.]

2 Member States shall take the measures necessary to ensure that those crew members that must be certified in accordance with Regulation III/10.4 of the SOLAS 74 are trained and certificated in accordance with this Directive.

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#### Textual Amendments

- F1** Substituted by [Directive 2012/35/EU of the European Parliament and of the Council of 21 November 2012 amending Directive 2008/106/EC on the minimum level of training of seafarers \(Text with EEA relevance\)](#).

### <sup>F2</sup>Article 4

#### [<sup>F2</sup>Certificate]

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#### Textual Amendments

- F2** Deleted by [Directive 2012/35/EU of the European Parliament and of the Council of 21 November 2012 amending Directive 2008/106/EC on the minimum level of training of seafarers \(Text with EEA relevance\)](#).

### Article 5

#### [<sup>F1</sup>Certificates of competency, certificates of proficiency and endorsements]

[<sup>F1</sup> Member States shall ensure that certificates of competency and certificates of proficiency are issued only to candidates who comply with the requirements of this Article.]

2 Certificates for masters, officers and radio operators shall be endorsed by the Member State as prescribed in this Article.

[<sup>F13</sup> Certificates of competency and certificates of proficiency shall be issued in accordance with Regulation I/2, paragraph 3 of the Annex to the STCW Convention.]

[<sup>F33a</sup> Certificates of competency shall be issued only by the Member States, following verification of the authenticity and validity of any necessary documentary evidence and in accordance with the provisions laid down in this Article.]

4 In respect of radio operators, Member States may:

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- a include the additional knowledge required by the relevant regulations in the examination for the issue of a certificate complying with the Radio Regulations; or
- b issue a separate certificate indicating that the holder has the additional knowledge required by the relevant regulations.

5 At the discretion of a Member State endorsements may be incorporated in the format of the certificates being issued as provided for in section A-I/2 of the STCW Code. If so incorporated the form used shall be that set out in section A-I/2, paragraph 1. If issued otherwise, the form of endorsements used shall be that set out in paragraph 2 of that section. Endorsements shall be issued in accordance with Article VI, paragraph 2, of the STCW Convention.

[<sup>F3</sup>Endorsements attesting the issue of a certificate of competency and endorsements attesting a certificate of proficiency issued to masters and officers in accordance with the Regulations V/1-1 and V/1-2 of Annex I shall be issued only if all the requirements of the STCW Convention and this Directive have been complied with.]

[<sup>F16</sup> A Member State which recognises a certificate of competency, or a certificate of proficiency, issued to masters and officers in accordance with Regulations V/1-1 and V/1-2 of the Annex to the STCW Convention under the procedure laid down in Article 19(2) of this Directive shall endorse that certificate to attest its recognition only after ensuring the authenticity and validity of the certificate. The form of the endorsement used shall be that set out in paragraph 3 of Section A-I/2 of the STCW Code.

- 7 The endorsements referred to in paragraphs 5 and 6:
- a may be issued as separate documents;
  - b shall be issued by Member States only;
  - c shall each be assigned a unique number, except for endorsements attesting the issue of a certificate of competency, which may be assigned the same number as the certificate of competency concerned, provided that that number is unique; and
  - d shall each expire as soon as the endorsed certificate of competency or certificate of proficiency issued to masters and officers in accordance with Regulations V/1-1 and V/1-2 of the Annex to the STCW Convention expires or is withdrawn, suspended or cancelled by the Member State or third country which issued it and, in any case, within five years of their date of issue.]

8 The capacity in which the holder of a certificate is authorised to serve shall be identified in the form of endorsement in terms identical to those used in the applicable safe-manning requirements of the Member State concerned.

9 A Member State may use a format different from the format laid down in section A-I/2 of the STCW Code, provided that, as a minimum, the required information is provided in Roman characters and Arabic figures, taking account of the variations permitted under section A-I/2.

[<sup>F410</sup> Subject to Article 19(7), any certificate required by this Directive shall be kept available in its original form on board the ship on which the holder is serving, in a hard copy or in a digital format, the authenticity and validity of which may be verified under the procedure laid down in point (b) of paragraph 12 of this Article.]

- [<sup>F311</sup> Candidates for certification shall provide satisfactory proof:
- a of their identity;
  - b that their age is not less than that prescribed in the Regulations listed in Annex I relevant to the certificate of competency or certificate of proficiency applied for;
  - c that they meet the standards of medical fitness, specified in Section A-I/9 of the STCW Code;

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- d that they have completed the seagoing service and any related compulsory training prescribed in the Regulations listed in Annex I for the certificate of competency or certificate of proficiency applied for; and
- e that they meet the standards of competence prescribed in the Regulations listed in Annex I for the capacities, functions and levels that are to be identified in the endorsement of the certificate of competency.

This paragraph shall not apply to recognition of endorsements under Regulation I/10 of the STCW Convention.

- 12 Each Member State shall undertake:
- a to maintain a register or registers of all certificates of competency and certificates of proficiency and endorsements for masters and officers and, where applicable, ratings which are issued, have expired or have been revalidated, suspended, cancelled or reported as lost or destroyed, as well as of dispensations issued;
  - b to make available information on the status of certificates of competency, endorsements and dispensations to other Member States or other Parties to the STCW Convention and companies which request verification of the authenticity and validity of certificates of competency and/or certificates issued to masters and officers in accordance with Regulations V/1-1 and V/1-2 of Annex I produced to them by seafarers seeking recognition, under Regulation I/10 of the STCW Convention, or employment on board ship.

[<sup>F4</sup>13 When relevant amendments to the STCW Convention and Part A of the STCW Code related to digital certificates for seafarers come into force, the Commission is empowered to adopt delegated acts in accordance with Article 27a to amend this Directive by aligning all the relevant provisions thereof with those amendments to the STCW Convention and Part A of the STCW Code in order to digitalise the seafarers' certificates and endorsements.]]

#### **Textual Amendments**

- F1** Substituted by [Directive 2012/35/EU of the European Parliament and of the Council of 21 November 2012 amending Directive 2008/106/EC on the minimum level of training of seafarers \(Text with EEA relevance\)](#).
- F3** Inserted by [Directive 2012/35/EU of the European Parliament and of the Council of 21 November 2012 amending Directive 2008/106/EC on the minimum level of training of seafarers \(Text with EEA relevance\)](#).
- F4** Substituted by [Directive \(EU\) 2019/1159 of the European Parliament and of the Council of 20 June 2019 amending Directive 2008/106/EC on the minimum level of training of seafarers and repealing Directive 2005/45/EC on the mutual recognition of seafarers' certificates issued by the Member States \(Text with EEA relevance\)](#).

[<sup>F4</sup> Article 5a

#### **Information to the Commission**

For the purposes of Article 20(8) and Article 21(2) and exclusively for use by the Member States and the Commission for policy-making and statistical purposes, Member States shall submit to the Commission, on a yearly basis, the information listed in Annex V to this Directive on certificates of competency and endorsements attesting the recognition of certificates of competency. They may also provide, on a voluntary basis, information on certificates of proficiency issued to ratings in accordance with

Chapters II, III and VII of the Annex to the STCW Convention, such as the information indicated in Annex V to this Directive.]

#### Textual Amendments

- F4** Substituted by [Directive \(EU\) 2019/1159 of the European Parliament and of the Council of 20 June 2019 amending Directive 2008/106/EC on the minimum level of training of seafarers and repealing Directive 2005/45/EC on the mutual recognition of seafarers' certificates issued by the Member States \(Text with EEA relevance\)](#).

#### *[<sup>F5</sup> Article 5b*

#### **Mutual recognition of seafarers' certificates issued by Member States**

1 Every Member State shall accept certificates of proficiency and documentary evidence issued by another Member State, or under its authority, in hard copy or in digital format, for the purpose of allowing seafarers to serve on ships flying its flag.

2 Every Member State shall recognise certificates of competency issued by another Member State or certificates of proficiency issued by another Member State to masters and officers in accordance with Regulations V/1-1 and V/1-2 of Annex I to this Directive, by endorsing those certificates to attest their recognition. The endorsement attesting the recognition shall be limited to the capacities, functions and levels of competency or proficiency prescribed therein. The endorsement shall only be issued if all requirements of the STCW Convention have been complied with, in accordance with Regulation I/2, paragraph 7, of the STCW Convention. The form of the endorsement used shall be that set out in Section A-I/2, paragraph 3, of the STCW Code.

3 Every Member State shall accept, for the purpose of allowing seafarers to serve on ships flying its flag, medical certificates issued under the authority of another Member State in accordance with Article 11.

4 The host Member States shall ensure that the decisions referred to in paragraphs 1, 2 and 3 are issued within a reasonable time. The host Member States shall also ensure that seafarers have the right to appeal against any refusal to endorse or accept a valid certificate, or the absence of any response, in accordance with national legislation and procedures and that seafarers are provided with adequate advice and assistance regarding such appeals in accordance with established national legislation and procedures.

5 Without prejudice to paragraph 2 of this Article, the competent authorities of a host Member State may impose further limitations on capacities, functions and levels of competence or proficiency relating to near-coastal voyages, as referred to in Article 7, or alternative certificates issued under Regulation VII/1 of Annex I.

6 Without prejudice to paragraph 2, a host Member State may, where necessary, allow a seafarer to serve, for a period not exceeding three months on board a ship flying its flag, while holding an appropriate and valid certificate issued and endorsed by another Member State, but not yet endorsed for recognition by the host Member State concerned.

Documentary proof that an application for endorsement has been submitted to the competent authorities shall be readily available.



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7 A host Member State shall ensure that seafarers who present for recognition certificates for functions at management level have appropriate knowledge of the maritime legislation of that Member State relevant to the functions that they are permitted to perform.]

#### Textual Amendments

**F5** Inserted by [Directive \(EU\) 2019/1159 of the European Parliament and of the Council of 20 June 2019 amending Directive 2008/106/EC on the minimum level of training of seafarers and repealing Directive 2005/45/EC on the mutual recognition of seafarers' certificates issued by the Member States \(Text with EEA relevance\).](#)

### Article 6

#### Training requirements

The training required pursuant to Article 3 shall be in a form appropriate to the theoretical knowledge and practical skills required by Annex I, in particular the use of life saving and fire-fighting equipment, and approved by the competent authority or body designated by each Member State.

### Article 7

#### Principles governing near-coastal voyages

1 When defining near-coastal voyages Member States shall not impose training, experience or certification requirements on seafarers serving on board ships entitled to fly the flag of another Member State or another Party to the STCW Convention and engaged in such voyages in a manner resulting in more stringent requirements for such seafarers than for seafarers serving on board ships entitled to fly their own flag. In no case shall a Member State impose requirements in respect of seafarers serving on board ships flying the flag of another Member State or of another Party to the STCW Convention in excess of those of this Directive in respect of ships not engaged in near-coastal voyages.

[<sup>F3</sup>1a A Member State, for ships afforded the benefits of the near-coastal voyage provisions of the STCW Convention, which includes voyages off the coast of other Member States or of Parties to the STCW Convention within the limits of their near-coastal definition, shall enter into an undertaking with the Member States or Parties concerned specifying both the details of the trading areas involved and other relevant provisions.]

2 With respect to ships entitled to fly the flag of a Member State regularly engaged in near-coastal voyages off the coast of another Member State or of another Party to the STCW Convention, the Member State the flag of which a ship is entitled to fly shall prescribe training, experience and certification requirements for seafarers serving on such ships at least equal to those of the Member State or the Party to the STCW Convention off the coast of which the ship is engaged, provided that they do not exceed the requirements of this Directive in respect of ships not engaged in near-coastal voyages. Seafarers serving on a ship which extends its voyage beyond what is defined as a near-coastal voyage by a Member State and enters waters not covered by that definition shall fulfil the appropriate requirements of this Directive.

3 A Member State may afford a ship which is entitled to fly its flag the benefits of the near-coastal voyage provisions of this Directive when it is regularly engaged off the coast of a non-Party to the STCW Convention on near-coastal voyages as defined by that Member State.

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[<sup>F3</sup>3a The certificates of competency of seafarers issued by a Member State or a Party to the STCW Convention for its defined near-coastal voyage limits may be accepted by other Member States for service in their defined near-coastal voyage limits, provided the Member States or Parties concerned enter into an undertaking specifying the details of the trading areas involved and other relevant conditions thereof.

3b Member States defining near-coastal voyages, in accordance with the requirements of this Article, shall:

- a meet the principles governing near-coastal voyages specified in Section A-I/3 of the STCW Code;
- b incorporate the near-coastal voyage limits in the endorsements issued pursuant to Article 5.]

4 Upon deciding on the definition of near-coastal voyages and the conditions of education and training required thereof in accordance with the requirements of paragraphs 1, 2 and 3, Member States shall communicate to the Commission the details of the provisions they have adopted.

#### Textual Amendments

- F3** Inserted by [Directive 2012/35/EU of the European Parliament and of the Council of 21 November 2012 amending Directive 2008/106/EC on the minimum level of training of seafarers \(Text with EEA relevance\)](#).

### Article 8

#### Prevention of fraud and other unlawful practices

[<sup>F1</sup>1 Member States shall take and enforce appropriate measures to prevent fraud and other unlawful practices involving certificates and endorsements issued, and shall provide for penalties that are effective, proportionate and dissuasive.]

2 Member States shall designate the national authorities competent to detect and combat fraud and other unlawful practices and exchange information with the competent authorities of other Member States and of third countries concerning the certification of seafarers.

Member States shall forthwith inform the other Member States and the Commission of the details of such competent national authorities.

Member States shall also forthwith inform any third countries with which they have entered into an undertaking in accordance with Regulation I/10, paragraph 1.2 of the STCW Convention of the details of such competent national authorities.

3 At the request of a host Member State, the competent authorities of another Member State shall provide written confirmation or denial of the authenticity of seafarers' certificates, corresponding endorsements or any other documentary evidence of training issued in that other Member State.

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#### Textual Amendments

- F1** Substituted by [Directive 2012/35/EU of the European Parliament and of the Council of 21 November 2012 amending Directive 2008/106/EC on the minimum level of training of seafarers \(Text with EEA relevance\)](#).

### Article 9

#### Penalties or disciplinary measures

[<sup>F1</sup> Member States shall establish processes and procedures for the impartial investigation of any reported incompetence, act, omission or compromise to security that may pose a direct threat to safety of life or property at sea or to the marine environment, on the part of the holders of certificates of competency and certificates of proficiency or endorsements issued by that Member State in connection with their performance of duties relating to their certificates of competency and certificates of proficiency and for the withdrawal, suspension and cancellation of such certificates of competency and certificates of proficiency for such cause and for the prevention of fraud.

2 Member States shall take and enforce appropriate measures to prevent fraud and other unlawful practices involving certificates of competency and certificates of proficiency and endorsements issued.]

3 [<sup>F1</sup>Penalties or disciplinary measures shall be prescribed and enforced in cases in which:]

- a a company or a master has engaged a person not holding a certificate as required by this Directive;
- b a master has allowed any function or service in any capacity which under this Directive must be performed by a person holding an appropriate certificate to be performed by a person not holding the required certificate, a valid dispensation or having the documentary proof required by Article 19(7); or
- c a person has obtained by fraud or forged documents an engagement to perform any function or serve in any capacity which under this Directive must be performed or fulfilled by a person holding a certificate or dispensation.

4 Member States within the jurisdiction of which any company which or any person who is believed on clear grounds to have been responsible for or to have knowledge of any apparent non-compliance with this Directive specified in paragraph 3, is located shall extend cooperation to any Member State or other Party to the STCW Convention which advises them of its intention to initiate proceedings under its jurisdiction.

#### Textual Amendments

- F1** Substituted by [Directive 2012/35/EU of the European Parliament and of the Council of 21 November 2012 amending Directive 2008/106/EC on the minimum level of training of seafarers \(Text with EEA relevance\)](#).

## Article 10

### Quality standards

- 1 Each Member State shall ensure that:
- [<sup>F1</sup>a all training, assessment of competence, certification, including medical certification, endorsement and revalidation activities carried out by non-governmental agencies or entities under their authority are continuously monitored through a quality standards system to ensure the achievement of defined objectives, including those concerning the qualifications and experience of instructors and assessors, in accordance with Section A-I/8 of the STCW Code;]
  - [<sup>F1</sup>b where governmental agencies or entities perform such activities, there is a quality standards system in accordance with Section A-I/8 of the STCW Code;]
  - [<sup>F1</sup>c education and training objectives and related quality standards of competence to be achieved are clearly defined and that the levels of knowledge, understanding and skills appropriate to the examinations and assessments required under the STCW Convention are identified;]
  - d the fields of application of the quality standards cover the administration of the certification systems, all training courses and programmes, examinations and assessments carried out by or under the authority of each Member State and the qualifications and experience required of instructors and assessors, having regard to the policies, systems, controls and internal quality-assurance reviews established to ensure achievement of the defined objectives.

The objectives and related quality standards referred to in point (c) of the first subparagraph may be specified separately for different courses and training programmes and shall cover the administration of the certification system.

- 2 Member States shall also ensure that independent evaluations of the knowledge, understanding, skills and competence acquisition and assessment activities, and of the administration of the certification system, are conducted at intervals of not more than five years by qualified persons who are not themselves involved in the activities concerned in order to verify that:

- a all internal management control and monitoring measures and follow-up actions comply with planned arrangements and documental procedures and are effective in ensuring that the defined objectives are achieved;
- b the results of each independent evaluation are documented and brought to the attention of those responsible for the area evaluated;
- c timely action is taken to correct deficiencies[<sup>F1</sup>;]
- [<sup>F3</sup>d all applicable provisions of the STCW Convention and Code, including amendments are covered by the quality standards system. Member States may also include within this system the other applicable provisions of this Directive.]

[<sup>F13</sup> A report relating to each evaluation carried out pursuant to paragraph 2 shall be communicated by the Member State concerned to the Commission, in accordance with the format specified in Section A-I/7 of the STCW Code, within six months of the date of the evaluation.]

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#### Textual Amendments

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- F3** Inserted by [Directive 2012/35/EU of the European Parliament and of the Council of 21 November 2012 amending Directive 2008/106/EC on the minimum level of training of seafarers \(Text with EEA relevance\)](#).

### *[<sup>F1</sup> Article 11*

#### **Medical standards**

1 Each Member State shall establish standards of medical fitness for seafarers and procedures for the issue of a medical certificate in accordance with this Article and Section A-I/9 of the STCW Code, taking into account, as appropriate, Section B-I/9 of the STCW Code.

2 Each Member State shall ensure that those responsible for assessing the medical fitness of seafarers are medical practitioners recognised by that Member State for the purpose of seafarer medical examinations, in accordance with the Section A-I/9 of the STCW Code.

3 Every seafarer holding a certificate of competency or a certificate of proficiency, issued under the provisions of the STCW Convention, who is serving at sea shall also hold a valid medical certificate issued in accordance with this Article and Section A-I/9 of the STCW Code.

4 Candidates for medical certification shall:

- a be not less than 16 years of age;
- b provide satisfactory proof of their identity; and
- c meet the applicable medical fitness standards established by the Member State concerned.

5 Medical certificates shall remain valid for a maximum period of two years unless the seafarer is under the age of 18, in which case the maximum period of validity shall be one year.

6 If the period of validity of a medical certificate expires in the course of a voyage, Regulation I/9 of the Annex to the STCW Convention shall apply.

7 In urgent cases, a Member State may permit a seafarer to work without a valid medical certificate. In such cases, Regulation I/9 of the Annex to the STCW Convention shall apply.]

#### Textual Amendments

- F1** Substituted by [Directive 2012/35/EU of the European Parliament and of the Council of 21 November 2012 amending Directive 2008/106/EC on the minimum level of training of seafarers \(Text with EEA relevance\)](#).

## Article 12

### [<sup>F1</sup>Revalidation of certificates of competency and certificates of proficiency]

[<sup>F41</sup> Every master, officer and radio operator holding a certificate issued or recognised under any chapter of Annex I other than Regulation V/3 of Chapter V or Chapter VI, who is serving at sea or intends to return to sea after a period ashore, shall, in order to continue to qualify for seagoing service, be required at intervals not exceeding five years:

- a to meet the standards of medical fitness prescribed by Article 11; and
- b to establish continued professional competence in accordance with Section A-I/11 of the STCW Code.]

2 Every master, officer and radio operator shall, for continuing seagoing service on board ships for which special training requirements have been internationally agreed upon, successfully complete approved relevant training.

[<sup>F32a</sup> Every master and officer shall, for continuing seagoing service on board tankers, meet the requirements of paragraph 1 of this Article and be required, at intervals not exceeding five years, to establish continued professional competence for tankers in accordance with paragraph 3 of Section A-I/11 of the STCW Code.]

[<sup>F52b</sup> Every master or officer shall, for continuing seagoing service on board ships operating in polar waters, meet the requirements of paragraph 1 of this Article and shall be required, at intervals not exceeding five years, to establish continued professional competence for ships operating in polar waters in accordance with Section A-I/11, paragraph 4, of the STCW Code.]

[<sup>F43</sup> Each Member State shall compare the standards of competence which are required of candidates for certificates of competency and/or certificates of proficiency issued until 1 January 2017 with those specified for the relevant certificate of competency and/or proficiency in Part A of the STCW Code, and shall determine the need to require the holders of such certificates of competency and/or certificates of proficiency to undergo appropriate refresher and updating training or assessment.]

[<sup>F53a</sup> Every Member State shall compare the standards of competence which it required of persons serving on gas-fuelled ships before 1 January 2017 with the standards of competence in Section A-V/3 of the STCW Code, and shall determine the need, if any, for requiring those persons to update their qualifications.]

4 Each Member State shall, in consultation with those concerned, formulate or promote the formulation of a structure of refresher and updating courses as provided for in section A-I/11 of the STCW Code.

[<sup>F15</sup> For the purpose of updating the knowledge of masters, officers and radio operators, each Member State shall ensure that the texts of recent changes in national and international regulations concerning the safety of life at sea, security and the protection of the marine environment are made available to ships entitled to fly its flag, while respecting point (b) of Article 14(3) and Article 18.]

#### Textual Amendments

- F1** Substituted by [Directive 2012/35/EU of the European Parliament and of the Council of 21 November 2012 amending Directive 2008/106/EC on the minimum level of training of seafarers \(Text with EEA relevance\)](#).

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- F3** Inserted by Directive 2012/35/EU of the European Parliament and of the Council of 21 November 2012 amending Directive 2008/106/EC on the minimum level of training of seafarers (Text with EEA relevance).
- F4** Substituted by Directive (EU) 2019/1159 of the European Parliament and of the Council of 20 June 2019 amending Directive 2008/106/EC on the minimum level of training of seafarers and repealing Directive 2005/45/EC on the mutual recognition of seafarers' certificates issued by the Member States (Text with EEA relevance).
- F5** Inserted by Directive (EU) 2019/1159 of the European Parliament and of the Council of 20 June 2019 amending Directive 2008/106/EC on the minimum level of training of seafarers and repealing Directive 2005/45/EC on the mutual recognition of seafarers' certificates issued by the Member States (Text with EEA relevance).

### *Article 13*

#### **Use of simulators**

1 The performance standards and other provisions set out in section A-I/12 of the STCW Code and such other requirements as are prescribed in Part A of the STCW Code for any certificate concerned shall be complied with in respect of:

- a all mandatory simulator-based training;
- b any assessment of competence required by Part A of the STCW Code which is carried out by means of a simulator;
- c any demonstration, by means of a simulator, of continued proficiency required by Part A of the STCW Code.

**F2** .....

#### **Textual Amendments**

- F2** Deleted by Directive 2012/35/EU of the European Parliament and of the Council of 21 November 2012 amending Directive 2008/106/EC on the minimum level of training of seafarers (Text with EEA relevance).

### *Article 14*

#### **Responsibilities of companies**

1 In accordance with paragraphs 2 and 3 Member States shall hold companies responsible for the assignment of seafarers for service in their ships in accordance with this Directive, and shall require every company to ensure that:

- a each seafarer assigned to any of its ships holds an appropriate certificate in accordance with the provisions of this Directive and as established by the Member State;
- b its ships are manned in accordance with the applicable safe-manning requirements of the Member State;
- c documentation and data relevant to all seafarers employed on its ships are maintained and readily accessible, and include, without being limited to, documentation and data on their experience, training, medical fitness and competence in assigned duties;
- d on being assigned to any of its ships seafarers are familiarised with their specific duties and with all ship arrangements, installations, equipment, procedures, and ship characteristics that are relevant to their routine or emergency duties;

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- e the ship's complement can effectively coordinate their activities in an emergency situation and in performing functions vital to safety or to the prevention or mitigation of pollution<sup>[F1];</sup>
  - <sup>[F3]</sup>f seafarers assigned to any of its ships have received refresher and updating training as required by the STCW Convention;
  - g at all times on board its ships there shall be effective oral communication in accordance with paragraphs 3 and 4 of Chapter V of Regulation 14, of the SOLAS 74, as amended.]
- 2 Companies, masters and crew members shall each have responsibility for ensuring that the obligations set out in this Article are given full and complete effect and that such other measures as may be necessary are taken to ensure that each crew member can make a knowledgeable and informed contribution to the safe operation of the ship.
- 3 The company shall provide written instructions to the master of each ship to which this Directive applies, setting out the policies and the procedures to be followed to ensure that all seafarers who are newly employed on board the ship are given a reasonable opportunity to become familiar with the shipboard equipment, operating procedures and other arrangements needed for the proper performance of their duties, before being assigned to those duties. Such policies and procedures shall include:
- a the allocation of a reasonable period of time during which each newly employed seafarer will have an opportunity to become acquainted with:
    - (i) the specific equipment the seafarer will be using or operating; and
    - (ii) ship-specific watchkeeping, safety, environmental protection and emergency procedures and arrangements the seafarer needs to know to perform the assigned duties properly;
  - b the designation of a knowledgeable crew member who will be responsible for ensuring that each newly employed seafarer is given an opportunity to receive essential information in a language the seafarer understands.
- <sup>[F3]</sup>4 Companies shall ensure that masters, officers and other personnel assigned specific duties and responsibilities on board their ro-ro passenger ships shall have completed familiarisation training to attain the abilities that are appropriate to the capacity to be filled and duties and responsibilities to be taken up, taking into account the guidance given in Section B-I/14 of the STCW Code.]

#### Textual Amendments

- F1** Substituted by [Directive 2012/35/EU of the European Parliament and of the Council of 21 November 2012 amending Directive 2008/106/EC on the minimum level of training of seafarers \(Text with EEA relevance\)](#).
- F3** Inserted by [Directive 2012/35/EU of the European Parliament and of the Council of 21 November 2012 amending Directive 2008/106/EC on the minimum level of training of seafarers \(Text with EEA relevance\)](#).

#### <sup>[F1]</sup> Article 15

#### Fitness for duty

- 1 For the purpose of preventing fatigue, Member States shall:



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- a establish and enforce rest periods for watchkeeping personnel and those whose duties involve designated safety, security and prevention of pollution duties in accordance with paragraphs 3 to 13;
- b require that watch systems are arranged in such a way that the efficiency of watchkeeping personnel is not impaired by fatigue, and that duties are organised in such a way that the first watch at the start of a voyage and subsequent relieving watches are sufficiently rested and otherwise fit for duty.

2 Member States shall, for the purpose of preventing drug and alcohol abuse, ensure that adequate measures are established in accordance with the provisions laid down in this Article.

3 Member States shall take account of the danger posed by fatigue of seafarers, especially those whose duties involve the safe and secure operation of a ship.

4 All persons who are assigned duty as officer in charge of a watch or as a rating forming part of a watch, and those whose duties involve designated safety, prevention of pollution and security duties shall be provided with a rest period of not less than:

- a a minimum of 10 hours of rest in any 24-hour period; and
- b 77 hours in any seven-day period.

5 The hours of rest may be divided into no more than two periods, one of which shall be at least six hours in length, and the intervals between consecutive periods of rest shall not exceed 14 hours.

6 The requirements for rest periods laid down in paragraphs 4 and 5 need not be maintained in the case of an emergency or in other overriding operational conditions. Musters, firefighting and lifeboat drills, and drills prescribed by national laws and regulations and by international instruments, shall be conducted in a manner that minimises the disturbance of rest periods and does not induce fatigue.

7 Member States shall require that watch schedules be posted where they are easily accessible. The schedules shall be established in a standardised format in the working language or languages of the ship and in English.

8 When a seafarer is on call, such as when a machinery space is unattended, the seafarer shall have an adequate compensatory rest period if the normal period of rest is disturbed by call-outs to work.

9 Member States shall require that records of daily hours of rest of seafarers be maintained in a standardised format, in the working language or languages of the ship and in English, to allow monitoring and verification of compliance with this Article. Seafarers shall receive a copy of the records pertaining to them, which shall be endorsed by the master, or by a person authorised by the master, and by the seafarers.

10 Notwithstanding the rules laid down in paragraphs 3 to 9, the master of a ship shall be entitled to require a seafarer to perform any hours of work necessary for the immediate safety of the ship, persons on board or cargo, or for the purpose of giving assistance to other ships or persons in distress at sea. Accordingly, the master may suspend the schedule of hours of rest and require a seafarer to perform any hours of work necessary until the normal situation has been restored. As soon as practicable after the normal situation has been restored, the master shall ensure that any seafarers who have performed work in a scheduled rest period are provided with an adequate period of rest.

11 With due regard for the general principles of the protection of the health and safety of workers and in line with Directive 1999/63/EC Member States may, by means of national laws, regulations or a procedure for the competent authority, authorise or register collective

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agreements permitting exceptions to the required hours of rest set out in point (b) of paragraph 4 and in paragraph 5 of this Article provided that the rest period is no less than 70 hours in any seven-day period and respects the limits set out in paragraphs 12 and 13 of this Article. Such exceptions shall, as far as possible, follow the standards set out but may take account of more frequent or longer leave periods, or the granting of compensatory leave for watchkeeping seafarers or seafarers working on board ships on short voyages. Exceptions shall, as far as possible, take into account the guidance regarding prevention of fatigue laid down in Section B-VIII/1 of the STCW Code. Exceptions to the minimum hours of rest provided for in point (a) of paragraph 4 of this Article shall not be allowed.

12 Exceptions referred to in paragraph 11 to the weekly rest period provided for in point (b) of paragraph 4 shall not be allowed for more than two consecutive weeks. The intervals between two periods of exceptions on board shall not be less than twice the duration of the exception.

13 In the framework of possible exceptions to paragraph 5 referred to in paragraph 11, the minimum hours of rest in any 24-hour period provided for in point (a) of paragraph 4 may be divided into no more than three periods of rest, one of which shall be at least six hours in length and neither of the two other periods shall be less than one hour in length. The intervals between consecutive periods of rest shall not exceed 14 hours. Exceptions shall not extend beyond two 24-hour periods in any seven-day period.

14 Member States shall establish, for the purpose of preventing alcohol abuse, a limit of not greater than 0,05 % blood alcohol level (BAC) or 0,25 mg/l alcohol in the breath or a quantity of alcohol leading to such alcohol concentration for masters, officers and other seafarers while performing designated safety, security and marine environmental duties.]

#### **Textual Amendments**

- F1** Substituted by [Directive 2012/35/EU of the European Parliament and of the Council of 21 November 2012 amending Directive 2008/106/EC on the minimum level of training of seafarers \(Text with EEA relevance\)](#).

### *Article 16*

#### **Dispensation**

1 In circumstances of exceptional necessity, competent authorities may, if in their opinion this does not cause danger to persons, property or the environment, issue a dispensation permitting a specified seafarer to serve in a specified ship for a specified period not exceeding six months in a capacity, other than that of the radio operator, except as provided by the relevant Radio Regulations, for which he or she does not hold the appropriate certificate, provided that the person to whom the dispensation is issued shall be adequately qualified to fill the vacant post in a safe manner to the satisfaction of the competent authorities. However, dispensations shall not be granted to a master or chief engineer officer, except in circumstances of force majeure and then only for the shortest possible period.

2 Any dispensation granted for a post shall be granted only to a person properly certificated to fill the post immediately below. Where certification of the post below is not required, a dispensation may be issued to a person whose qualification and experience are, in the opinion of the competent authorities, of a clear equivalence to the requirements for the post to be filled, provided that, if such a person holds no appropriate certificate, he or she shall be required to pass a test accepted by the competent authorities as demonstrating that such a dispensation

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may safely be issued. In addition, the competent authorities shall ensure that the post in question is filled by the holder of an appropriate certificate as soon as possible.

### Article 17

#### **Responsibilities of Member States with regard to training and assessment**

- 1 Member States shall designate the authorities or bodies which shall:
  - a give the training referred to in Article 3;
  - b organise and/or supervise the examinations where required;
  - [<sup>F1</sup>c issue the certificates referred to in Article 5;]
  - d grant the dispensations provided for in Article 16.
- 2 Member States shall ensure that:
  - a all training and assessment of seafarers is:
    - (i) structured in accordance with the written programmes, including such methods and media of delivery, procedures and course material as are necessary to achieve the prescribed standard of competence; and
    - (ii) conducted, monitored, evaluated and supported by persons qualified in accordance with points (d), (e) and (f);
  - b persons conducting in-service training or assessment on board ship do so only when such training or assessment will not adversely affect the normal operation of the ship and they can dedicate their time and attention to training or assessment;
  - c instructors, supervisors and assessors are appropriately qualified for the particular types and levels of training or assessment of competence of seafarers either on board or ashore;
  - d any person conducting in-service training of a seafarer, either on board or ashore, which is intended to be used in qualifying for certification under this Directive:
    - (i) has an appreciation of the training programme and an understanding of the specific training objectives for the particular type of training being conducted;
    - (ii) is qualified in the task for which training is being conducted; and
    - (iii) if conducting training using a simulator:
      - has received appropriate guidance in instructional techniques involving the use of simulators, and
      - has gained practical operational experience on the particular type of simulator being used;
  - e any person responsible for the supervision of the in-service training of a seafarer intended to be used in qualifying for certification has a full understanding of the training programme and the specific objectives for each type of training being conducted;
  - f any person conducting in-service assessment of the competence of a seafarer, either on board or ashore, which is intended to be used in qualifying for certification under this Directive:
    - (i) has an appropriate level of knowledge and understanding of the competence to be assessed;
    - (ii) is qualified in the task for which the assessment is being made;

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- (iii) has received appropriate guidance in assessment methods and practice;
  - (iv) has gained practical assessment experience; and
  - (v) if conducting assessment involving the use of simulators, has gained practical assessment experience on the particular type of simulator under the supervision and to the satisfaction of an experienced assessor;
- g when a Member State recognises a course of training, a training institution, or a qualification granted by a training institution, as part of its requirements for the issue of a certificate, the qualifications and experience of instructors and assessors are covered in the application of the quality standard provisions of Article 10; such qualification, experience and application of quality standards shall incorporate appropriate training in instructional techniques and training and assessment methods and practice and comply with all applicable requirements of points (d), (e) and (f).

#### Textual Amendments

- F1** Substituted by [Directive 2012/35/EU of the European Parliament and of the Council of 21 November 2012 amending Directive 2008/106/EC on the minimum level of training of seafarers \(Text with EEA relevance\)](#).

### Article 18

#### On-board communication

Member States shall ensure that:

- (a) without prejudice to points (b) and (d), there are at all times, on board all ships flying the flag of a Member State, means in place for effective oral communication relating to safety between all members of the ship's crew, particularly with regard to the correct and timely reception and understanding of messages and instructions;
- (b) on board all passenger ships flying the flag of a Member State and on board all passenger ships starting and/or finishing a voyage in a Member State port, in order to ensure effective crew performance in safety matters, a working language is established and recorded in the ship's log-book;
 

the company or the master, as appropriate, shall determine the appropriate working language; each seafarer shall be required to understand and, where appropriate, give orders and instructions and report back in that language;

if the working language is not an official language of the Member State, all plans and lists that must be posted shall include translations into the working language;
- (c) on board passenger ships, personnel nominated on muster lists to assist passengers in emergency situations are readily identifiable and have communication skills that are sufficient for that purpose, taking into account an appropriate and adequate combination of any of the following factors:
  - (i) the language or languages appropriate to the principal nationalities of passengers carried on a particular route;
  - (ii) the likelihood that an ability to use elementary English vocabulary for basic instructions can provide a means of communicating with a passenger in need

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- of assistance whether or not the passenger and crew member share a common language;
- (iii) the possible need to communicate during an emergency by some other means (e.g. by demonstration, hand signals, or calling attention to the location of instructions, muster stations, life-saving devices or evacuation routes) when verbal communication is impractical;
  - (iv) the extent to which complete safety instructions have been provided to passengers in their native language or languages;
  - (v) the languages in which emergency announcements may be broadcast during an emergency or drill to convey critical guidance to passengers and to facilitate crew members in assisting passengers;
- (d) on board oil tankers, chemical tankers and liquefied gas tankers flying the flag of a Member State, the master, officers and rating are able to communicate with each other in (a) common working language(s);
  - (e) there are adequate means for communication between the ship and the shore-based authorities; these communications shall be conducted in accordance with Chapter V, Regulation 14, paragraph 4, of the SOLAS 74;
  - (f) when carrying out port State control under Directive 95/21/EC, Member States also check that ships flying the flag of a State other than a Member State comply with this Article.

#### Article 19

#### **[<sup>F1</sup>Recognition of certificates of competency and certificates of proficiency]**

[<sup>F1</sup> Seafarers who do not possess the certificates of competency issued by Member States and/or the certificates of proficiency issued by Member States to masters and officers in accordance with Regulations V/1-1 and V/1-2 of the STCW Convention, may be allowed to serve on ships flying the flag of a Member State provided that a decision on the recognition of their certificates of competency and certificates of proficiency has been adopted through the procedures set out in paragraphs 2 to 6 of this Article.]

[<sup>F42</sup> A Member State which intends to recognise, by endorsement, the certificates of competency or the certificates of proficiency referred to in paragraph 1 of this Article issued by a third country to a master, officer or radio operator, for service on ships flying its flag, shall submit a request to the Commission for the recognition of that third country, accompanied by a preliminary analysis of the third country's compliance with the requirements of the STCW Convention by collecting the information referred to in Annex II to this Directive. In that preliminary analysis, further information on the reasons for recognition of the third country shall be provided by the Member State, in support of its request.

Following the submission of such a request by a Member State, the Commission shall process without delay that request and shall decide, in accordance with the examination procedure referred to in Article 28(2), on the initiation of the assessment of the training and certification system in the third country within a reasonable time with due regard to the time limit set out in paragraph 3 of this Article.

When a positive decision for initiating the assessment has been adopted, the Commission, assisted by the European Maritime Safety Agency and with the possible

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involvement of the Member State submitting the request and any other interested Member States, shall collect the information referred to in Annex II to this Directive and shall carry out an assessment of the training and certification systems in the third country for which the request for recognition was submitted, in order to verify that the country concerned meets all the requirements of the STCW Convention and that appropriate measures have been taken to prevent issuance of fraudulent certificates, and to consider whether it has ratified the Maritime Labour Convention, 2006.

3 Where, as a result of the assessment referred to in paragraph 2 of this Article, the Commission concludes that all those requirements are fulfilled, it shall adopt implementing acts laying down its decision on the recognition of a third country. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 28(2), within 24 months of the submission of the request by a Member State referred to in paragraph 2 of this Article.

In case the third country concerned needs to implement major corrective actions, including amendments to its legislation, its education, training and certification system in order to meet the requirements of the STCW Convention, the implementing acts referred to in the first subparagraph of this paragraph shall be adopted within 36 months of the submission of the request by a Member State referred to in paragraph 2 of this Article.

The Member State submitting that request may decide to recognise the third country unilaterally until an implementing act is adopted pursuant to this paragraph. In case of such a unilateral recognition, the Member State shall communicate to the Commission the number of endorsements attesting recognition issued in relation to certificates of competency and certificates of proficiency referred to in paragraph 1, issued by the third country until the implementing act regarding the recognition of that third country is adopted.]

4 A Member State may decide, with respect to ships flying its flag, to endorse certificates issued by the third countries recognised by the Commission, account being taken of the provisions contained in Annex II, points (4) and (5).

5 Recognitions of certificates issued by recognised third countries and published in the *Official Journal of the European Union*, C series, before 14 June 2005 shall remain valid.

These recognitions may be used by all Member States unless the Commission has subsequently withdrawn them pursuant to Article 20.

6 The Commission shall draw up and update a list of the third countries that have been recognised. The list shall be published in the *Official Journal of the European Union*, C series.

7 Notwithstanding Article 5(6), a Member State may, if circumstances require, allow a seafarer to serve in a capacity other than radio officer or radio operator, except as provided by the Radio Regulations, for a period not exceeding three months on board a ship flying its flag, while holding an appropriate and valid certificate issued and endorsed as required by a third country, but not yet endorsed for recognition by the Member State concerned so as to render it appropriate for service on board a ship flying its flag.

Documentary proof shall be kept readily available that application for an endorsement has been submitted to the competent authorities.

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#### **Textual Amendments**

- F1** Substituted by [Directive 2012/35/EU of the European Parliament and of the Council of 21 November 2012 amending Directive 2008/106/EC on the minimum level of training of seafarers \(Text with EEA relevance\)](#).
- F4** Substituted by [Directive \(EU\) 2019/1159 of the European Parliament and of the Council of 20 June 2019 amending Directive 2008/106/EC on the minimum level of training of seafarers and repealing Directive 2005/45/EC on the mutual recognition of seafarers' certificates issued by the Member States \(Text with EEA relevance\)](#).

### *Article 20*

#### **Non-compliance with the requirements of the STCW Convention**

1 Notwithstanding the criteria specified in Annex II, when a Member State considers that a recognised third country no longer complies with the requirements of the STCW Convention, it shall notify the Commission immediately, giving substantiated reasons therefor.

The Commission shall without delay refer the matter to the Committee referred to in Article 28(1).

2 Notwithstanding the criteria set out in Annex II, when the Commission considers that a recognised third country no longer complies with the requirements of the STCW Convention, it shall notify the Member States immediately, giving substantiated reasons therefor.

The Commission shall without delay refer the matter to the Committee referred to in Article 28(1).

3 When a Member State intends to withdraw the endorsements of all certificates issued by a third country it shall without delay inform the Commission and the other Member States of its intention, giving substantiated reasons therefor.

4 The Commission, assisted by the European Maritime Safety Agency, shall reassess the recognition of the third country concerned in order to verify whether that country failed to comply with the requirements of the STCW Convention.

5 Where there are indications that a particular maritime training establishment no longer complies with the requirements of the STCW Convention, the Commission shall notify the country concerned that recognition of that country's certificates will be withdrawn in two months' time unless measures are taken to ensure compliance with all the requirements of the STCW Convention.

[<sup>F16</sup> The decision on the withdrawal of the recognition shall be taken by the Commission. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 28(2). The Member States concerned shall take appropriate measures to implement the decision.]

7 Endorsements attesting recognition of certificates, issued in accordance with Article 5(6) before the date on which the decision to withdraw recognition of the third country is taken, shall remain valid. Seafarers holding such endorsements may not claim an endorsement recognising a higher qualification, however, unless that upgrading is based solely on additional seagoing service experience.

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[<sup>F58</sup> If there are no endorsements attesting recognition issued by a Member State in relation to certificates of competency or certificates of proficiency, referred to in Article 19(1), issued by a third country for a period of more than eight years, the recognition of that country's certificates shall be re-examined. The Commission shall adopt implementing acts laying down its decision following that re-examination. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 28(2), after notifying the Member States as well as the third country concerned at least six months in advance.]

#### Textual Amendments

- F1** Substituted by [Directive 2012/35/EU of the European Parliament and of the Council of 21 November 2012 amending Directive 2008/106/EC on the minimum level of training of seafarers \(Text with EEA relevance\)](#).
- F5** Inserted by [Directive \(EU\) 2019/1159 of the European Parliament and of the Council of 20 June 2019 amending Directive 2008/106/EC on the minimum level of training of seafarers and repealing Directive 2005/45/EC on the mutual recognition of seafarers' certificates issued by the Member States \(Text with EEA relevance\)](#).

### Article 21

#### Reassessment

[<sup>F41</sup> The third countries that have been recognised under the procedure referred to in the first subparagraph of Article 19(3), including those referred to in Article 19(6), shall be reassessed by the Commission, with the assistance of the European Maritime Safety Agency, on a regular basis and at least within ten years of the last assessment, to verify that they fulfil the relevant criteria set out in Annex II and whether the appropriate measures have been taken to prevent issuance of fraudulent certificates.

2 The Commission, with the assistance of the European Maritime Safety Agency, shall carry out the reassessment of the third countries based on priority criteria. Those priority criteria shall include the following:

- a performance data by the port State control pursuant to Article 23;
- b the number of endorsements attesting recognition in relation to certificates of competency, or certificates of proficiency issued in accordance with Regulations V/1-1 and V/1-2 of the STCW Convention, issued by the third country;
- c the number of maritime education and training institutions accredited by the third country;
- d the number of seafarers' training and professional development programmes approved by the third country;
- e the date of the Commission's last assessment of the third country and the number of deficiencies in critical processes identified during that assessment;
- f any significant change in the maritime training and certification system of the third country;
- g the overall numbers of seafarers certified by the third country, serving on ships flying the flags of Member States and the level of training and qualifications of those seafarers;
- h information concerning education and training standards in the third country provided by any concerned authorities or other stakeholders, if available.



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In case of non-compliance of a third country with the requirements of the STCW Convention in accordance with Article 20 of this Directive, the reassessment of that third country shall take priority in relation to the other third countries.]

3 The Commission shall provide the Member States with a report on the results of the assessment.

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**Textual Amendments**

- F4** Substituted by [Directive \(EU\) 2019/1159 of the European Parliament and of the Council of 20 June 2019 amending Directive 2008/106/EC on the minimum level of training of seafarers and repealing Directive 2005/45/EC on the mutual recognition of seafarers' certificates issued by the Member States \(Text with EEA relevance\).](#)

*Article 22*

**Port State control**

[<sup>F1</sup> Irrespective of the flag it flies, each ship, with the exception of those types of ships excluded by Article 2, shall, while in the ports of a Member State, be subject to port State control by officers duly authorised by that Member State to verify that all seafarers serving on board who are required to hold a certificate of competency and/or a certificate of proficiency and/or documentary evidence under the STCW Convention, hold such a certificate of competency or valid dispensation and/or certificate of proficiency and/or documentary evidence.]

2 When exercising port State control under this Directive, Member States shall ensure that all relevant provisions and procedures laid down in Directive 95/21/EC are applied.

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**Textual Amendments**

- F1** Substituted by [Directive 2012/35/EU of the European Parliament and of the Council of 21 November 2012 amending Directive 2008/106/EC on the minimum level of training of seafarers \(Text with EEA relevance\).](#)

*Article 23*

**Port State control procedures**

1 Without prejudice to Directive 95/21/EC, port State control pursuant to Article 22 shall be limited to the following:

- [<sup>F1</sup>a verification that every seafarer serving on board who is required to hold a certificate of competency and/or a certificate of proficiency in accordance with the STCW Convention holds such a certificate of competency or valid dispensation and/or certificate of proficiency, or provides documentary proof that an application for an endorsement attesting recognition of a certificate of competency has been submitted to the authorities of the flag State;]
- b verification that the numbers and certificates of the seafarers serving on board are in accordance with the safe-manning requirements of the authorities of the flag State.

[<sup>F12</sup> The ability of the ship's seafarers to maintain watchkeeping and security standards, as appropriate, as required by the STCW Convention shall be assessed in accordance with Part

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A of the STCW Code if there are clear grounds for believing that such standards are not being maintained because any of the following has occurred:]

- a the ship has been involved in a collision, grounding or stranding;
- b there has been a discharge of substances from the ship when under way, at anchor or at berth which is illegal under an international convention;
- c the ship has been manoeuvred in an erratic or unsafe manner whereby routing measures adopted by the IMO, or safe navigation practices and procedures have not been followed;
- [<sup>F1</sup>d the ship is otherwise being operated in such a manner as to pose a danger to persons, property or the environment, or to compromise security;]
- e a certificate has been fraudulently obtained or the holder of a certificate is not the person to whom that certificate was originally issued;
- f the ship is flying the flag of a country which has not ratified the STCW Convention, or has a master, officer or rating holding a certificate issued by a third country which has not ratified the STCW Convention.

3 Notwithstanding verification of the certificate, assessment under paragraph 2 may require the seafarer to demonstrate the relevant competence at the place of duty. Such a demonstration may include verification that operational requirements in respect of watchkeeping standards have been met and that there is a proper response to emergency situations within the seafarer's level of competence.

#### **Textual Amendments**

- F1** Substituted by [Directive 2012/35/EU of the European Parliament and of the Council of 21 November 2012 amending Directive 2008/106/EC on the minimum level of training of seafarers \(Text with EEA relevance\)](#).

#### *Article 24*

#### **Detention**

Without prejudice to Directive 95/21/EC, the following deficiencies, in so far as they have been determined by the officer carrying out the port State control that they pose a danger to persons, property or the environment, shall be the only grounds under this Directive on which a Member State may detain a ship:

- (a) failure of seafarers to hold certificates, to have appropriate certificates, to have valid dispensations or provide documentary proof that an application for an endorsement attesting recognition has been submitted to the authorities of the flag State;
- (b) failure to comply with the applicable safe-manning requirements of the flag State;
- (c) failure of navigational or engineering-watch arrangements to conform to the requirements specified for the ship by the flag State;
- (d) absence in a watch of a person qualified to operate equipment essential to safe navigation, safety radio communications or the prevention of marine pollution;
- (e) failure to provide proof of professional proficiency for the duties assigned to seafarers for the safety of the ship and the prevention of pollution;

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- (f) inability to provide for the first watch at the commencement of a voyage and for subsequent relieving watches persons who are sufficiently rested and otherwise fit for duty.

#### Article 25

### Regular monitoring of compliance

Without prejudice to the powers of the Commission under Article 226 of the Treaty, the Commission, assisted by the European Maritime Safety Agency, shall verify on a regular basis and at least every five years that Member States comply with the minimum requirements laid down by this Directive.

#### <sup>F3</sup>Article 25a

### Information for statistical purposes

<sup>F41</sup> The Member States shall communicate the information referred to in Annex V to the Commission for the purposes of Article 20(8) and Article 21(2) and for use by the Member States and the Commission in policy making.]

2 That information shall be made available by Member States to the Commission on a yearly basis and in electronic format and shall include information registered until 31 December of the previous year. Member States shall retain all property rights to the information in its raw data format. Processed statistics drawn up on the basis of such information shall be made publicly available in accordance with the provisions on transparency and protection of information set out in Article 4 of Regulation (EC) No 1406/2002.

3 In order to ensure the protection of personal data, Member States shall anonymise all personal information as indicated in Annex V by using software provided or accepted by the Commission before transmitting it to the Commission. The Commission shall use this anonymised information only.

4 Member States and the Commission shall ensure that measures for collecting, submitting, storing, analysing and disseminating such information are designed in such a way that statistical analysis is made possible.

For the purposes of the first subparagraph, the Commission shall adopt detailed measures regarding the technical requirements necessary to ensure the appropriate management of the statistical data. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 28(2).]

#### Textual Amendments

- F3** Inserted by [Directive 2012/35/EU of the European Parliament and of the Council of 21 November 2012 amending Directive 2008/106/EC on the minimum level of training of seafarers \(Text with EEA relevance\)](#).
- F4** Substituted by [Directive \(EU\) 2019/1159 of the European Parliament and of the Council of 20 June 2019 amending Directive 2008/106/EC on the minimum level of training of seafarers and repealing Directive 2005/45/EC on the mutual recognition of seafarers' certificates issued by the Member States \(Text with EEA relevance\)](#).

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## *[<sup>F4</sup>Article 26*

### **Evaluation report**

No later than 2 August 2024 the Commission shall submit to the European Parliament and to the Council an evaluation report, including suggestions for follow up actions to be taken in the light of that evaluation. In that evaluation report, the Commission shall analyse the implementation of the mutual recognition scheme of seafarers' certificates issued by Member States, and any developments regarding digital certificates for seafarers at international level. The Commission shall also evaluate any developments regarding a future consideration of the European Maritime Diplomas of Excellence, as underpinned by the recommendations provided by the social partners.]

#### **Textual Amendments**

- F4** Substituted by [Directive \(EU\) 2019/1159 of the European Parliament and of the Council of 20 June 2019 amending Directive 2008/106/EC on the minimum level of training of seafarers and repealing Directive 2005/45/EC on the mutual recognition of seafarers' certificates issued by the Member States \(Text with EEA relevance\)](#).

## *[<sup>F4</sup>Article 27*

### **Amendment**

1 The Commission is empowered to adopt delegated acts in accordance with Article 27a amending Annex I to this Directive and the related provisions of this Directive in order to align that Annex and those provisions with the amendments to the STCW Convention and Part A of the STCW Code.

2 The Commission is empowered to adopt delegated acts in accordance with Article 27a amending Annex V to this Directive with respect to specific and relevant content and details of the information that needs to be reported by Member States provided that such acts are limited to taking into account the amendments to the STCW Convention and Part A of the STCW Code and respect the safeguards on data protection. Such delegated acts shall not change the provisions on anonymisation of data set out in Article 25a(3).]

#### **Textual Amendments**

- F4** Substituted by [Directive \(EU\) 2019/1159 of the European Parliament and of the Council of 20 June 2019 amending Directive 2008/106/EC on the minimum level of training of seafarers and repealing Directive 2005/45/EC on the mutual recognition of seafarers' certificates issued by the Member States \(Text with EEA relevance\)](#).

## *[<sup>F4</sup>Article 27a*

### **Exercise of the delegation**

1 The power to adopt delegated acts is conferred on the Commission subject to the conditions laid down in this Article.

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2 The power to adopt delegated acts referred to in Article 5(13) and Article 27 shall be conferred on the Commission for a period of five years from 1 August 2019. The Commission shall draw up a report in respect of the delegation of power not later than nine months before the end of the five-year period. The delegation of power shall be tacitly extended for periods of an identical duration, unless the European Parliament or the Council opposes such extension not later than three months before the end of each period.

3 The delegation of power referred to in Article 5(13) and Article 27 may be revoked at any time by the European Parliament or by the Council. A decision to revoke shall put an end to the delegation of the power specified in that decision. It shall take effect the day following the publication of the decision in the *Official Journal of the European Union* or at a later date specified therein. It shall not affect the validity of any delegated acts already in force.

4 Before adopting a delegated act, the Commission shall consult experts designated by each Member State in accordance with the principles laid down in the Interinstitutional Agreement of 13 April 2016 on Better Law-Making.

5 As soon as it adopts a delegated act, the Commission shall notify it simultaneously to the European Parliament and to the Council.

6 A delegated act adopted pursuant to Article 5(13) and Article 27 shall enter into force only if no objection has been expressed either by the European Parliament or by the Council within a period of two months of notification of that act to the European Parliament and the Council or if, before the expiry of that period, the European Parliament and the Council have both informed the Commission that they will not object. That period shall be extended by two months at the initiative of the European Parliament or of the Council.]

#### Textual Amendments

- F4** Substituted by [Directive \(EU\) 2019/1159 of the European Parliament and of the Council of 20 June 2019 amending Directive 2008/106/EC on the minimum level of training of seafarers and repealing Directive 2005/45/EC on the mutual recognition of seafarers' certificates issued by the Member States \(Text with EEA relevance\).](#)

### *[<sup>F1</sup>Article 28*

#### **Committee procedure**

1 The Commission shall be assisted by the Committee on Safe Seas and the Prevention of Pollution from Ships (COSS) established by Regulation (EC) No 2099/2002 of the European Parliament and of the Council<sup>(1)</sup>. That committee shall be a committee within the meaning of Regulation (EU) No 182/2011 of the European Parliament and of the Council of 16 February 2011 laying down the rules and general principles concerning mechanisms for control by Member States of the Commission's exercise of implementing powers<sup>(2)</sup>.

2 Where reference is made to this paragraph, Article 5 of Regulation (EU) No 182/2011 shall apply. Where the Committee delivers no opinion, the Commission shall not adopt the draft implementing act and the third subparagraph of Article 5(4) of Regulation (EU) No 182/2011 shall apply.]

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#### Textual Amendments

- F1** Substituted by [Directive 2012/35/EU of the European Parliament and of the Council of 21 November 2012 amending Directive 2008/106/EC on the minimum level of training of seafarers \(Text with EEA relevance\)](#).

### *[<sup>F1</sup>Article 29*

#### Penalties

Member States shall lay down systems of penalties for breaching the national provisions adopted pursuant to Articles 3, 5, 7, 9 to 15, 17, 18, 19, 22, 23, 24 and Annex I, and shall take all the measures necessary to ensure that they are implemented. The penalties provided for must be effective, proportionate and dissuasive.]

#### Textual Amendments

- F1** Substituted by [Directive 2012/35/EU of the European Parliament and of the Council of 21 November 2012 amending Directive 2008/106/EC on the minimum level of training of seafarers \(Text with EEA relevance\)](#).

### *[<sup>F1</sup>Article 30*

#### Transitional provisions

In respect of those seafarers who commenced approved seagoing service, an approved education and training programme or an approved training course before 1 July 2013, Member States may continue to issue, recognise and endorse, until 1 January 2017, certificates of competency in accordance with the requirements of this Directive as they were before 3 January 2013.

Until 1 January 2017, Member States may continue to renew and revalidate certificates of competency and endorsements in accordance with the requirements of this Directive as they were before 3 January 2013.]

#### Textual Amendments

- F1** Substituted by [Directive 2012/35/EU of the European Parliament and of the Council of 21 November 2012 amending Directive 2008/106/EC on the minimum level of training of seafarers \(Text with EEA relevance\)](#).

### *Article 31*

#### Communication

Member States shall immediately communicate to the Commission the texts of all the provisions which they adopt in the field governed by this Directive.

The Commission shall inform the other Member States thereof.

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## Article 32

### Repeal

Directive 2001/25/EC, as amended by the Directives listed in Annex III, Part A, is repealed, without prejudice to the obligations of the Member States relating to the time limits for transposition into national law of the Directives set out in Annex III, Part B.

References to the repealed Directive shall be construed as references to this Directive and shall be read in accordance with the correlation table in Annex IV.

## <sup>F2</sup>Article 33

### [<sup>F2</sup>Entry into force]

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#### Textual Amendments

- F2** Deleted by [Directive 2012/35/EU of the European Parliament and of the Council of 21 November 2012 amending Directive 2008/106/EC on the minimum level of training of seafarers \(Text with EEA relevance\)](#).

## Article 34

### Addressees

This Directive is addressed to the Member States.

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- (1) [<sup>F1</sup>OJ L 324, 29.11.2002, p. 1.]
- (2) [<sup>F1</sup>OJ L 55, 28.2.2011, p. 13.]

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#### **Textual Amendments**

- F1** Substituted by [Directive 2012/35/EU of the European Parliament and of the Council of 21 November 2012 amending Directive 2008/106/EC on the minimum level of training of seafarers \(Text with EEA relevance\)](#).