

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)

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)

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THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community, and in particular Article 80(2) thereof,

Having regard to the proposal from the Commission,

Having regard to the opinion of the European Economic and Social Committee⁽¹⁾,

After consulting the Committee of the Regions,

Acting in accordance with the procedure laid down in Article 251 of the Treaty⁽²⁾,

Whereas:

- (1) Directive 2001/25/EC of the European Parliament and of the Council of 4 April 2001 on the minimum level of training of seafarers⁽³⁾ has been significantly amended on several occasions⁽⁴⁾. Now that new amendments are being made to that Directive, it is desirable, for reasons of clarity, that the provisions in question should be recast.
- (2) Actions to be taken at Community level in the field of maritime safety and pollution prevention at sea should be in line with internationally agreed rules and standards.
- (3) In order to maintain and develop the level of knowledge and skills in the maritime sector in the Community, it is important to pay appropriate attention to maritime training and the status of seafarers in the Community.
- (4) A consistent level of training for the award of vocational competency certificates to seafarers should be ensured in the interests of maritime safety.
- (5) Directive 2005/36/EC of the European Parliament and of the Council of 7 September 2005 on the recognition of professional qualifications⁽⁵⁾ applies to maritime occupations covered by this Directive. It will help promote compliance with the obligations laid down in the Treaty abolishing obstacles to the free movement of persons and services between Member States.
- (6) The mutual recognition of diplomas and certificates provided for under Directive 2005/36/EC does not always ensure a standardised level of training for all seafarers

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serving on board vessels flying the flag of a Member State. This is, however, vital from the viewpoint of maritime safety.

- (7) It is therefore essential to define a minimum level of training for seafarers in the Community. That level should be based on the standards of training already agreed at international level, namely the International Maritime Organisation (IMO) Convention on Standards of Training, Certification and Watchkeeping for Seafarers, 1978 (STCW Convention), as revised in 1995. All Member States are Parties to that Convention.
- (8) Member States may establish standards higher than the minimum standards laid down in the STCW Convention and this Directive.
- (9) The Regulations of the STCW Convention annexed to this Directive should be supplemented by the mandatory provisions contained in Part A of the Seafarers' Training, Certification and Watchkeeping Code (STCW Code). Part B of the STCW Code contains recommended guidance intended to assist Parties to the STCW Convention and those involved in implementing, applying or enforcing its measures to give the Convention full and complete effect in a uniform manner.
- (10) For the enhancement of maritime safety and pollution prevention at sea, provisions on minimum rest periods for watchkeeping personnel should be established in this Directive in accordance with the STCW Convention. Those provisions should be applied without prejudice to the provisions of Council Directive 1999/63/EC of 21 June 1999 concerning the Agreement on the organisation of working time of seafarers concluded by the European Community Shipowners' Association (ECSA) and the Federation of Transport Workers' Unions in the European Union (FST)⁽⁶⁾.
- (11) Member States should take and enforce specific measures to prevent and penalise fraudulent practices associated with certificates of competency as well as pursue their efforts within the IMO to achieve strict and enforceable agreements on the worldwide combating of such practices.
- (12) In order to enhance maritime safety and prevent loss of human life and maritime pollution, communication among crew members on board ships sailing in Community waters should be improved.
- (13) Personnel on board passenger ships nominated to assist passengers in emergency situations should be able to communicate with the passengers.
- (14) Crews serving on board tankers carrying noxious or polluting cargo should be capable of coping effectively with accident prevention and emergency situations. It is paramount that a proper communication link between the master, officers and ratings is established, covering the requirements provided for in this Directive.
- (15) It is essential to ensure that seafarers holding certificates issued by third countries and serving on board Community ships have a level of competence equivalent to that required by the STCW Convention. This Directive should lay down procedures and common criteria for the recognition by the Member States of certificates issued by third countries, based on the training and certification requirements as agreed in the framework of the STCW Convention.

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- (16) In the interests of safety at sea, Member States should recognise qualifications proving the required level of training only where these are issued by or on behalf of Parties to the STCW Convention which have been identified by the IMO Maritime Safety Committee (MSC) as having been shown to have given, and still to be giving, full effect to the standards set out in that Convention. To bridge the time gap until the MSC has been able to carry out such identification, a procedure for the preliminary recognition of certificates is needed.
- (17) Where appropriate, maritime institutes, training programmes and courses should be inspected. Criteria for such inspection should therefore be established.
- (18) The Commission should be assisted by a committee in carrying out the tasks related to the recognition of certificates issued by training institutes or administrations of third countries.
- (19) The European Maritime Safety Agency established by Regulation (EC) No 1406/2002 of the European Parliament and of the Council⁽⁷⁾ should assist the Commission in verifying that Member States comply with the requirements laid down in this Directive.
- (20) Member States, as port authorities, are required to enhance safety and prevention of pollution in Community waters through priority inspection of vessels flying the flag of a third country which has not ratified the STCW Convention, thereby ensuring no more favourable treatment to vessels flying the flag of a third country.
- (21) It is appropriate to include in this Directive provisions on port State control, pending the amendment of Council Directive 95/21/EC⁽⁸⁾ on port State control of shipping in order to transfer to that Directive the provisions on port State control which are included in this Directive.
- (22) It is necessary to provide for procedures for adapting this Directive to changes in international conventions and codes.
- (23) The measures necessary for the implementation of this Directive should be adopted in accordance with Council Decision 1999/468/EC of 28 June 1999 laying down the procedures for the exercise of implementing powers conferred on the Commission⁽⁹⁾.
- (24) In particular the Commission should be empowered to amend this Directive in order to apply, for the purposes of this Directive, subsequent amendments to certain international codes and any relevant amendment to Community legislation. Since those measures are of general scope and are designed to amend non-essential elements of this Directive, they must be adopted in accordance with the regulatory procedure with scrutiny provided for in Article 5a of Decision 1999/468/EC.
- (25) The new elements introduced into this Directive only concern the committee procedures. They therefore do not need to be transposed by the Member States.
- (26) This Directive should be without prejudice to the obligations of the Members States relating to the time limits for transposition into national law of the Directives set out in Annex III, Part B,

HAVE ADOPTED THIS DIRECTIVE:

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- (1) [OJ C 151, 17.6.2008, p. 35.](#)
- (2) Opinion of the European Parliament of 17 June 2008 (not yet published in the Official Journal) and Council Decision of 20 October 2008.
- (3) [OJ L 136, 18.5.2001, p. 17.](#)
- (4) See Annex III, Part A.
- (5) [OJ L 255, 30.9.2005, p. 22.](#)
- (6) [OJ L 167, 2.7.1999, p. 33.](#)
- (7) [OJ L 208, 5.8.2002, p. 1.](#)
- (8) [OJ L 157, 7.7.1995, p. 1.](#)
- (9) [OJ L 184, 17.7.1999, p. 23.](#)