

DIRECTIVES

DIRECTIVE 2009/100/EC OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL**of 16 September 2009****on reciprocal recognition of navigability licences for inland waterway vessels****(codified version)****(Text with EEA relevance)**

THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community, and in particular Article 71 thereof,

Having regard to the proposal from the Commission,

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

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

Whereas:

(1) Council Directive 76/135/EEC of 20 January 1976 on reciprocal recognition of navigability licences for inland waterway vessels ⁽³⁾ has been substantially amended ⁽⁴⁾. In the interests of clarity and rationality that Directive should be codified.

(2) Reciprocal recognition of navigability licences for inland waterway vessels should be achieved with a view to improving the safety of inland navigation in the Community.

(3) It is necessary to establish under what circumstances and on what conditions Member States may interrupt the passage of a vessel.

(4) It is necessary that the measures provided for in this Directive apply to those vessels which are not covered by Directive 2006/87/EC of the European Parliament and of the Council of 12 December 2006 laying down technical requirements for inland waterway vessels ⁽⁵⁾.

(5) This Directive should be 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 II, Part B,

HAVE ADOPTED THIS DIRECTIVE:

Article 1

In accordance with Article 21 of Directive 2006/87/EC, this Directive shall apply to vessels used for goods transport on inland waterways and having a total dead weight of 20 metric tonnes or more:

- (a) having a length of less than 20 metres; or
- (b) for which the product of length (L), breadth (B) and draught (T) is less than 100 m³.

This Directive shall not prejudice the provisions laid down in the Rhine Vessel Inspection Regulation and in the Agreement on transport of dangerous goods on the Rhine (ADNR).

Article 2

1. Member States shall, to the extent required, lay down any necessary procedures for the issue of navigability licences.

However, a Member State may exempt from this Directive vessels which do not leave the inland waterways of its territory.

⁽¹⁾ OJ C 204, 9.8.2008, p. 47.

⁽²⁾ Opinion of the European Parliament of 17 June 2008 (not yet published in the Official Journal) and Council Decision of 13 July 2009.

⁽³⁾ OJ L 21, 29.1.1976, p. 10.

⁽⁴⁾ See Annex II, Part A.

⁽⁵⁾ OJ L 389, 30.12.2006, p. 1.

2. Navigability licences shall be issued by the Member State in which the vessel is registered or has its home port or, failing that, by the Member State in which the owner of the vessel is domiciled. Any Member State may request another Member State to issue navigability licences for vessels operated by nationals of the former. Member States may delegate their powers to approved bodies.

3. Navigability licences shall be made out in one of the official languages of the institutions of the European Union; they shall provide at least the information and use the system of numbering specified in Annex I.

Article 3

1. Subject to paragraphs 3 to 6, each Member State shall recognise for navigation on its national waterways the navigability licences issued by another Member State in accordance with Article 2 on the same basis as if it had issued those licences itself.

2. Paragraph 1 shall apply only if the licence was issued or last extended not more than five years previously and has not expired.

A certificate issued pursuant to the Rhine Vessel Inspection Regulation shall be accepted as evidence, within the meaning of paragraphs 3 and 5, for its full duration.

3. Member States may require that the technical specifications laid down in the Rhine Vessel Inspection Regulation be complied with. They may require the certificate referred to in the second subparagraph of paragraph 2 as evidence of this.

4. Member States may require vessels carrying dangerous goods as defined in the ADNR to comply with the requirements laid down in that Agreement. As evidence of this, they may require that the authorisation provided for in that Agreement be produced.

5. Vessels which fulfil the requirements laid down in the Rhine Vessel Inspection Regulation shall be admitted to all inland waterways in the Community. Evidence of compliance with those requirements may be provided by the certificate referred to in the second subparagraph of paragraph 2.

Special conditions for the transport of dangerous goods shall be considered fulfilled in all Community waterways if the vessels

meet the requirements of the ADNR. Evidence of compliance with those requirements may be provided by the authorisation referred to in paragraph 4.

6. Member States may require fulfilment in maritime shipping lanes of additional conditions equivalent to those required for their own vessels. Member States shall inform the Commission of their maritime shipping lanes, the list of which shall be drawn up by the Commission on the basis of the information supplied to it by the Member States.

Article 4

1. Any Member State may withdraw a navigability licence which it has issued.

2. Any Member State may interrupt the passage of a vessel, where the vessel is found on inspection to be in a condition which constitutes a danger to the surroundings, until the defects have been corrected. That Member State may also do so where the vessel or its equipment is found on inspection not to satisfy the requirements set out in the navigability licence or in the other documents referred to in Article 3 as the case may be.

3. A Member State which has interrupted the passage of a vessel, or which has indicated its intention to do so if the defects are not corrected, shall inform the competent authorities of the Member State where the navigability licence or the other documents referred to in Article 3 were issued of the reasons for the decision it has taken or it intends to take.

4. All decisions to interrupt the passage of a vessel taken pursuant to measures adopted in implementation of this Directive shall state in detail the reasons on which they are based. A decision shall be notified to the party concerned, who shall at the same time be informed of the remedies available to him under the laws in force in the Member States and of the time limits allowed for the pursuit of such remedies.

Article 5

Directive 76/135/EEC, as amended by the Directive set out in Annex II, Part A, is hereby repealed, without prejudice to the obligations of the Member States relating to the time limit for transposition into national law of the Directive set out in Annex II, 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 III.

Article 6

This Directive shall enter into force on the 20th day following its publication in the *Official Journal of the European Union*.

Article 7

This Directive is addressed to the Member States.

Done at Strasbourg, 16 September 2009.

For the European Parliament
The President
J. BUZEK

For the Council
The President
C. MALMSTRÖM

ANNEX I

MINIMUM INFORMATION TO APPEAR ON THE LICENCES

(referred to in Article 2(3))

The information is divided into three categories:

- I. Compulsory: no special sign
 - II. required if applicable: (x)
 - III. useful but optional: (+)
1. Name of the authority or approved body issuing the document
 2. (a) Title of document

(b) (+) Number of document
 3. Issuing State
 4. Name and domicile of the owner of the vessel
 5. Name of vessel
 6. (x) Place and number of registration
 7. (x) Home port
 8. (+) Construction type
 9. (+) Utilisation
 10. Main characteristics:
 - (a) overall length in metres
 - (b) overall breadth in metres
 - (c) depth below waterline at maximum draught(s) in metres
 11. (x) Dead weight(s) in metric tonnes or displacement(s) in cubic metres at maximum draught(s)
 12. (x) Indication of draught marking
 13. (x) Maximum authorised number of passengers
 14. (x) Total power of propelling engines in HP or kW
 15. Minimum freeboard(s) in centimetres

16. (a) Declaration: The vessel indicated above is certified as being suitable for navigation
- (b) (x) Subject to the following conditions
- (c) (x) Indication of navigation restrictions
17. (a) Date of expiry
- (b) Date of issue
18. Stamp and signature of the authority or approved body issuing the licence.

ANNEX II

PART A

Repealed Directive with its amending Directive

(referred to in Article 5)

Council Directive 76/135/EEC (OJ L 21, 29.1.1976, p. 10).

Council Directive 78/1016/EEC (OJ L 349, 13.12.1978, p. 31).

PART B

Time limit for transposition into national law

(referred to in Article 5)

Directive	Time limit for transposition
76/135/EEC	19 January 1977
78/1016/EEC	—

ANNEX III

Correlation table

Directive 76/135/EEC	This Directive
Article 1, introductory wording and point (a)	Article 1, first paragraph, introductory wording
Article 1, point (b)	—
—	Article 1, first paragraph, points (a) and (b)
Article 1, last sentence	Article 1, second paragraph
Articles 2 to 4	Articles 2 to 4
Article 5	—
Article 6	—
Article 7	—
—	Article 5
—	Article 6
Article 8	Article 7
Annex	Annex I
—	Annex II
—	Annex III