

Directive 2009/17/EC of the European Parliament and of the Council of 23 April 2009 amending Directive 2002/59/EC establishing a Community vessel traffic monitoring and information system (Text with EEA relevance)

Article 1

Amendments

Directive 2002/59/EC is hereby amended as follows:

1. Article 2(2) shall be amended as follows:
 - (a) the introductory wording shall be replaced by the following:

Unless otherwise provided, this Directive shall not apply to;
 - (b) point (c) shall be replaced by the following:
 - (c) bunkers on ships below 1 000 gross tonnage and ships' stores and equipment for use on board all ships.;
2. Article 3 shall be amended as follows:
 - (a) point (a) shall be amended as follows:
 - (i) the introductory wording shall be replaced by the following:

Relevant international instruments' means the following instruments, in their up-to-date version;;
 - (ii) the following indents shall be added:
 - “IMO Resolution A.917(22)” means International Maritime Organisation Resolution 917(22) entitled “Guidelines for the onboard use of AIS”, as amended by IMO Resolution A.956(23);
 - “IMO Resolution A.949(23)” means International Maritime Organisation Resolution 949(23) entitled “Guidelines on places of refuge for ships in need of assistance”;
 - “IMO Resolution A.950(23)” means International Maritime Organisation Resolution 950(23) entitled “Maritime assistance services (MAS)”;
 - “IMO guidelines on the fair treatment of seafarers in the event of a maritime accident” means the guidelines as annexed to resolution LEG. 3(91) of the IMO Legal Committee of 27 April 2006 and as approved by the Governing Body of the ILO in its 296th session of 12 to 16 June 2006.;
 - (b) point (k) shall be replaced by the following:
 - (k) “competent authorities” means the authorities and organisations designated by Member States to perform functions under this Directive.;

Status: EU Directives are being published on this site to aid cross referencing from UK legislation. After IP completion day (31 December 2020 11pm) no further amendments will be applied to this version.

- (c) the following points shall be added:
- (s) “SafeSeaNet” means the Community maritime information exchange system developed by the Commission in cooperation with the Member States to ensure the implementation of Community legislation;
 - (t) “scheduled service” means a series of ship crossings operated so as to serve traffic between the same two or more ports, either according to a published timetable or with crossings so regular or frequent that they constitute a recognisable systematic series;
 - (u) “fishing vessel” means any vessel equipped for commercial exploitation of living aquatic resources;
 - (v) “ship in need of assistance” means, without prejudice to the provisions of the SAR Convention concerning the rescue of persons, a ship in a situation that could give rise to its loss or an environmental or navigational hazard;
 - (w) “LRIT” means a system for the long-range identification and tracking of ships in accordance with SOLAS regulation V/19-1.;

3. the following Articles shall be inserted:

Article 6a

Use of automatic identification systems (AIS) by fishing vessels

Any fishing vessel with an overall length of more than 15 metres and flying the flag of a Member State and registered in the Community, or operating in the internal waters or territorial sea of a Member State, or landing its catch in the port of a Member State shall, in accordance with the timetable set out in Annex II, part I(3), be fitted with an AIS (Class A) which meets the performance standards drawn up by the IMO.

Fishing vessels equipped with AIS shall maintain it in operation at all times. In exceptional circumstances, AIS may be switched off where the master considers this necessary in the interest of the safety or security of his vessel.

Article 6b

Use of systems for the long-range identification and tracking of ships (LRIT)

1 Ships to which SOLAS regulation V/19-1 and the performance standards and functional requirements adopted by the IMO apply shall carry LRIT equipment complying with that regulation, when calling at a port of a Member State.

Member States and the Commission shall cooperate to determine the requirements concerning the fitting of equipment for transmitting LRIT information on board ships sailing in waters within the coverage of AIS fixed-based stations of Member States, and shall submit to the IMO any appropriate measures.

Status: EU Directives are being published on this site to aid cross referencing from UK legislation. After IP completion day (31 December 2020 11pm) no further amendments will be applied to this version.

2 The Commission shall cooperate with Member States to establish an LRIT European Data Centre in charge of processing long-range identification and tracking information.;

4. Article 12 shall be replaced by the following:

Article 12

Information requirements concerning the transport of dangerous goods

1 No dangerous or polluting goods shall be offered for carriage or taken on board any ship, irrespective of its size, in the port of a Member State unless a declaration has been delivered to the master or operator before the goods are taken on board containing the following information:

- a the information listed in Annex I(2);
- b for the substances referred to in Annex I to the MARPOL Convention, the safety data sheet detailing the physico-chemical characteristics of the products, including, where applicable, their viscosity expressed in cSt at 50 °C and their density at 15 °C and the other data contained in the safety data sheet in accordance with IMO Resolution MSC.150(77);
- c the emergency numbers of the shipper or any other person or body in possession of information on the physico-chemical characteristics of the products and on the action to be taken in an emergency.

2 Vessels coming from a port outside the Community and calling at a port of a Member State which have dangerous or polluting goods on board shall be in possession of a declaration, as provided for by the shipper, containing the information required under paragraph 1(a), (b) and (c).

3 It shall be the duty and responsibility of the shipper to deliver to the master or operator such a declaration, and to ensure that the shipment offered for carriage is indeed the one declared in accordance with paragraph 1.;

5. in the second paragraph of Article 14, point (c) shall be replaced by the following:

- (c) upon request, through SafeSeaNet, and if needed for the purpose of maritime safety or security or the protection of the maritime environment, Member States shall be able to send information on the ship and the dangerous or polluting goods on board to the national and local competent authorities of another Member State without delay.;

6. Article 15 shall be replaced by the following:

Article 15

Exemptions

1 Member States may exempt scheduled services performed between ports located on their territory from the requirements of Articles 4 and 13 provided the following conditions are met:

- a the company operating those scheduled services keeps and updates a list of the ships concerned and sends that list to the competent authority concerned;

Status: EU Directives are being published on this site to aid cross referencing from UK legislation. After IP completion day (31 December 2020 11pm) no further amendments will be applied to this version.

- b for each voyage performed, the information listed in Parts 1 or 3, as appropriate, of Annex I is kept available for the competent authority upon request. The company shall establish an internal system to ensure that, upon request 24 hours a day and without delay, such information can be sent to the competent authority electronically, in accordance with Article 4(1) or Article 13(4), as appropriate;
- c any deviations from the estimated time of arrival at the port of destination or pilot station of three hours or more are notified to the port of arrival or to the competent authority in accordance with Article 4 or Article 13, as appropriate;
- d exemptions are only granted to individual vessels as regards a specific service.

For the purposes of the first subparagraph, the service shall not be regarded as a scheduled service unless it is intended to be operated for a minimum of one month.

Exemptions from the requirements of Articles 4 and 13 shall be limited to voyages of a scheduled duration of up to 12 hours.

2 When an international scheduled service is operated between two or more States, of which at least one is a Member State, any of the Member States involved may request the other Member States to grant an exemption for that service. All Member States involved, including the coastal States concerned, shall collaborate in granting an exemption to the service concerned in accordance with the conditions set out in paragraph 1.

3 Member States shall periodically check that the conditions set out in paragraphs 1 and 2 are being met. Where at least one of these conditions is no longer being met, Member States shall immediately withdraw the benefit of the exemption from the company concerned.

4 Member States shall communicate to the Commission a list of companies and ships to which an exemption has been granted under this Article, as well as any updates to that list.;

7. the following points shall be added to Article 16(1):

- (d) ships which have failed to notify, or do not have, insurance certificates or financial guarantees pursuant to any Community legislation and international rules;
- (e) ships which have been reported by pilots or port authorities as having apparent anomalies which may prejudice their safe navigation or create a risk for the environment.;

8. the following Article shall be inserted:

Article 18a

Measures in the event of risks posed by the presence of ice

1 Where the competent authorities consider, in view of ice conditions, that there is a serious threat to the safety of human life at sea or to the protection of their shipping areas or coastal zones, or of the shipping areas or coastal zones of other States:

- a they shall supply the master of a ship which is in their area of competence, or intends to enter or leave one of their ports, with appropriate information

Status: EU Directives are being published on this site to aid cross referencing from UK legislation. After IP completion day (31 December 2020 11pm) no further amendments will be applied to this version.

on the ice conditions, the recommended routes and the icebreaking services in their area of competence;

- b they may, without prejudice to the duty of assistance to ships in need of assistance and other obligations flowing from relevant international rules, request that a ship which is in the area concerned and intends to enter or leave a port or terminal or to leave an anchorage area document that it satisfies the strength and power requirements commensurate with the ice situation in the area concerned.

2 The measures taken pursuant to paragraph 1 shall be based, as regards the data concerning the ice conditions, upon ice and weather forecasts provided by a qualified meteorological information service recognised by the Member State.;

9. Article 19 shall be amended as follows:

- (a) the following subparagraph shall be added to paragraph 2:

To this end they shall communicate to the competent national authorities, on request, the information referred to in Article 12.;

- (b) the following paragraph shall be added:

4. In accordance with their national law, Member States shall take into account the relevant provisions of the IMO guidelines on the fair treatment of seafarers in the event of a maritime accident in the waters under their jurisdiction.;

10. Article 20 shall be replaced by the following:

Article 20

Competent authority for the accommodation of ships in need of assistance

1 Member States shall designate one or more competent authorities which have the required expertise and the power, at the time of the operation, to take independent decisions on their own initiative concerning the accommodation of ships in need of assistance.

2 The authority or authorities referred to in paragraph 1 may, as appropriate and in particular in the event of a threat to maritime safety and protection of the environment, take any of the measures included in the list set out in Annex IV, which is non-exhaustive.

3 The authority or authorities referred to in paragraph 1 shall meet regularly to exchange expertise and improve measures taken pursuant to this Article. They may meet at any time on account of specific circumstances.;

11. the following Articles shall be inserted:

Article 20a

Plans for the accommodation of ships in need of assistance

1 Member States shall draw up plans for the accommodation of ships in order to respond to threats presented by ships in need of assistance in the waters under their

Status: EU Directives are being published on this site to aid cross referencing from UK legislation. After IP completion day (31 December 2020 11pm) no further amendments will be applied to this version.

jurisdiction, including, where applicable, threats to human life and the environment. The authority or authorities referred to in Article 20(1) shall participate in drawing up and carrying out those plans.

- 2 The plans referred to in paragraph 1 shall be prepared after consultation of the parties concerned, on the basis of IMO Resolutions A.949(23) and A.950(23), and shall contain at least the following:
- a the identity of the authority or authorities responsible for receiving and handling alerts;
 - b the identity of the competent authority for assessing the situation and taking a decision on acceptance or refusal of a ship in need of assistance in the place of refuge selected;
 - c information on the coastline of Member States and all elements facilitating a prior assessment and rapid decision regarding the place of refuge for a ship, including a description of environmental, economic and social factors and natural conditions;
 - d the assessment procedures for acceptance or refusal of a ship in need of assistance in a place of refuge;
 - e the resources and installations suitable for assistance, rescue and combating pollution;
 - f procedures for international coordination and decision-making;
 - g the financial guarantee and liability procedures in place for ships accommodated in a place of refuge.

- 3 Member States shall publish the name and contact address of the authority or authorities referred to in Article 20(1) and of the authorities appointed for receiving and handling alerts.

Member States shall communicate on request the relevant information concerning plans to neighbouring Member States.

In implementing the procedures provided for in the plans for accommodating ships in need of assistance, Member States shall ensure that relevant information is made available to the parties involved in the operations.

If requested by Member States, those receiving information in accordance with the second and third subparagraphs shall be bound by an obligation of confidentiality.

- 4 Member States shall inform the Commission by 30 November 2010 of the measures taken in application of this Article.

Article 20b

Decision on the accommodation of ships

The authority or authorities referred to in Article 20(1) shall decide on the acceptance of a ship in a place of refuge following a prior assessment of the situation carried out on the basis of the plans referred to in Article 20a. The authority or authorities shall ensure that ships are admitted to a place of refuge if they consider such an accommodation the best course of action for the purposes of the protection of human life or the environment.

Status: EU Directives are being published on this site to aid cross referencing from UK legislation. After IP completion day (31 December 2020 11pm) no further amendments will be applied to this version.

Article 20c

Financial security and compensation

1 The absence of an insurance certificate within the meaning of Article 6 of Directive 2009/20/EC of the European Parliament and of the Council of 23 April 2009 on the insurance of shipowners for maritime claims⁽¹⁾ shall not exonerate a Member State from the preliminary assessment and decision referred to in Article 20b, and shall not in itself be considered sufficient reason for a Member State to refuse to accommodate a ship in a place of refuge.

2 Without prejudice to paragraph 1, when accommodating a ship in a place of refuge, a Member State may request the ship's operator, agent or master to present a insurance certificate within the meaning of Article 6 of Directive 2009/20/EC. The act of requesting the certificate shall not lead to a delay in accommodating the ship.

Article 20d

Examination by the Commission

The Commission shall examine existing mechanisms within Member States for the compensation of potential economic loss suffered by a port or a body as a result of a decision taken pursuant to Article 20(1). It shall, on the basis of that examination, put forward and evaluate different policy options. By 31 December 2011, the Commission shall report to the European Parliament and to the Council on the results of the examination.;

12. the following Article shall be inserted:

Article 22a

SafeSeaNet

1 Member States shall establish maritime information management systems, at national or local level, to process the information referred to in this Directive.

2 The systems set up pursuant to paragraph 1 shall allow the information gathered to be used operationally and shall satisfy, in particular, the conditions laid down in Article 14.

3 To guarantee an effective exchange of the information referred to in this Directive, Member States shall ensure that national or local systems set up to gather, process and preserve that information can be interconnected with SafeSeaNet. The Commission shall ensure that SafeSeaNet is operational on a 24 hour-a-day basis. The description and principles of SafeSeaNet are laid down in Annex III.

4 Without prejudice to paragraph 3, where operating under intra-Community agreements or in the framework of cross-border interregional or transnational projects within the Community, Member States shall ensure that information systems or networks comply with the requirements of this Directive and are compatible with and connected to SafeSeaNet.;

Status: EU Directives are being published on this site to aid cross referencing from UK legislation. After IP completion day (31 December 2020 11pm) no further amendments will be applied to this version.

13. Article 23 shall be amended as follows:

- (a) point (c) shall be replaced by the following:
 - (c) extending the cover of the Community vessel traffic monitoring and information system, and/or updating it, with a view to enhanced identification and monitoring of ships, taking into account developments in information and communication technologies. To this end, Member States and the Commission shall work together to put in place, where necessary, mandatory reporting systems, mandatory maritime traffic services and appropriate ship's routing systems, with a view to submitting them to the IMO for approval. They shall also collaborate, within the regional or international bodies concerned, on developing long-range identification and tracking systems;;
- (b) the following point shall be added:
 - (e) ensuring the interconnection and interoperability of the national systems used for managing the information referred to in Annex I, and developing and updating SafeSeaNet.;

14. the following Article shall be inserted:

Article 23a

Processing and management of maritime safety information

1 The Commission shall ensure, where necessary, the processing, use and dissemination to the authorities designated by the Member States, of the information gathered under this Directive.

2 Where appropriate, the Commission shall contribute to the development and operation of systems for collecting and disseminating data relating to maritime safety, in particular through the "Equasis" system or any other equivalent public system.;

15. Article 24 shall be replaced by the following:

Article 24

Confidentiality of information

1 Member States shall, in accordance with Community or national legislation, take the necessary measures to ensure the confidentiality of information sent to them pursuant to this Directive, and shall only use such information in compliance with this Directive.

2 The Commission shall investigate possible network and information security problems and propose appropriate amendments to Annex III for improving the security of the network.;

16. Articles 27 and 28 shall be replaced by the following:

Status: EU Directives are being published on this site to aid cross referencing from UK legislation. After IP completion day (31 December 2020 11pm) no further amendments will be applied to this version.

Article 27

Amendments

- 1 References to Community and IMO instruments in this Directive, the definitions set out in Article 3 hereof and the Annexes hereto may be amended to bring them into line with provisions of Community or international law which have been adopted or amended or which have entered into force, in so far as such amendments do not broaden the scope of this Directive.

Those measures, designed to amend non-essential elements of this Directive, shall be adopted in accordance with the regulatory procedure with scrutiny referred to in Article 28(2).

- 2 Annexes I, III and IV may be amended in the light of experience gained with this Directive, in so far as such amendments do not broaden its scope.

Those measures, designed to amend non-essential elements of this Directive, shall be adopted in accordance with the regulatory procedure with scrutiny referred to in Article 28(2).

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⁽²⁾.

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

17. in Part 4 of Annex I, indent X shall be replaced by the following:

- X. Miscellaneous:
— characteristics and estimated quantity of bunker fuel, for ships of more than 1 000 gross tonnage,
— navigational status;

18. the following point shall be added to Part I of Annex II:

3. *Fishing vessels*

Fishing vessels with a length of more than 15 metres overall are subject to the carrying requirement laid down in Article 6a according to the following timetable:

- fishing vessels of overall length 24 metres and upwards but less than 45 metres: not later than 31 May 2012,
- fishing vessels of overall length 18 metres and upwards but less than 24 metres: not later than 31 May 2013,
- fishing vessels of overall length exceeding 15 metres but less than 18 metres: not later than 31 May 2014.

Status: EU Directives are being published on this site to aid cross referencing from UK legislation. After IP completion day (31 December 2020 11pm) no further amendments will be applied to this version.

New built fishing vessels of overall length exceeding 15 metres are subject to the carrying requirement laid down in Article 6a as from 30 November 2010.;

19. Annex III shall be replaced by the text appearing in the Annex to this Directive.

Article 2

Transposition

1 Member States shall bring into force the laws, regulations and administrative provisions necessary to comply with this Directive by 30 November 2010. They shall forthwith communicate to the Commission the text of those measures.

When Member States adopt those measures, they shall contain a reference to this Directive or be accompanied by such reference on the occasion of their official publication. Member States shall determine how such reference is to be made.

2 Member States shall communicate to the Commission the text of the main provisions of national law which they adopt in the field covered by this Directive.

Article 3

Entry into force

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

Article 4

Addressees

This Directive is addressed to the Member States.

Done at Strasbourg, 23 April 2009.

For the European Parliament

The President

H.-G. PÖTTERING

For the Council

The President

P. NEČAS

Status: EU Directives are being published on this site to aid cross referencing from UK legislation. After IP completion day (31 December 2020 11pm) no further amendments will be applied to this version.

- (1) [OJ L 131, 28.5.2009, p. 128'](#);
- (2) [OJ L 324, 29.11.2002, p. 1.'](#);