

Directive 2014/90/EU of the European Parliament and of the Council of 23 July 2014 on marine equipment and repealing Council Directive 96/98/EC (Text with EEA relevance)

CHAPTER 1

GENERAL PROVISIONS

Article 1

Objective

The objective of this Directive is to enhance safety at sea and to prevent marine pollution through the uniform application of the relevant international instruments relating to marine equipment to be placed on board EU ships, and to ensure the free movement of such equipment within the Union.

Article 2

Definitions

For the purposes of this Directive, the following definitions apply:

- (1) ‘marine equipment’ means equipment falling within the scope of this Directive in accordance with Article 3;
- (2) ‘EU ship’ means a ship flying the flag of a Member State and falling within the scope of the international conventions;
- (3) ‘international conventions’ means the following conventions, together with their protocols and codes of mandatory application, adopted under the auspices of the International Maritime Organization (IMO), which have entered into force and which lay down specific requirements for the approval by the flag State of equipment to be placed on board ships:
 - the 1972 Convention on the International Regulations for Preventing Collisions at Sea (Colreg),
 - the 1973 International Convention for the Prevention of Pollution from Ships (Marpol),
 - the 1974 International Convention for the Safety of Life at Sea (Solas);
- (4) ‘testing standards’ means the testing standards for marine equipment set by:
 - the International Maritime Organization (IMO),
 - the International Organization for Standardization (ISO),
 - the International Electrotechnical Commission (IEC),
 - the European Committee for Standardization (CEN),
 - the European Committee for Electrotechnical Standardization (Cenelec),
 - the International Telecommunication Union (ITU),
 - the European Telecommunications Standards Institute (ETSI),

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- the Commission, in accordance with Article 8 and Article 27(6) of this Directive,
 - the regulatory authorities recognised in the mutual recognition agreements to which the Union is a party;
- (5) ‘international instruments’ means the international conventions, together with the resolutions and circulars of the IMO giving effect to those conventions in their up-to-date version, and the testing standards;
 - (6) ‘wheel mark’ means the symbol referred to in Article 9 and set out in Annex I or, as appropriate, the electronic tag referred to in Article 11;
 - (7) ‘notified body’ means an organisation designated by the competent national administration of a Member State in accordance with Article 17;
 - (8) ‘making available on the market’ means any supply of marine equipment on the Union market in the course of a commercial activity, whether in return for payment or free of charge;
 - (9) ‘placing on the market’ means the first making available of marine equipment on the Union market;
 - (10) ‘manufacturer’ means any natural or legal person who manufactures marine equipment or has marine equipment designed or manufactured, and markets that equipment under its name or trademark;
 - (11) ‘authorised representative’ means any natural or legal person established within the Union who has received a written mandate from a manufacturer to act on its behalf in relation to specified tasks;
 - (12) ‘importer’ means any natural or legal person established within the Union who places marine equipment from a third country on the Union market;
 - (13) ‘distributor’ means any natural or legal person in the supply chain, other than the manufacturer or the importer, who makes marine equipment available on the market;
 - (14) ‘economic operators’ means the manufacturer, the authorised representative, the importer and the distributor;
 - (15) ‘accreditation’ means accreditation as defined in point 10 of Article 2 of Regulation (EC) No 765/2008;
 - (16) ‘national accreditation body’ means national accreditation body as defined in point 11 of Article 2 of Regulation (EC) No 765/2008;
 - (17) ‘conformity assessment’ means the process carried out by the notified bodies, in accordance with Article 15, demonstrating whether marine equipment complies with the requirements laid down in this Directive;
 - (18) ‘conformity assessment body’ means a body that performs conformity assessment activities including calibration, testing, certification and inspection;
 - (19) ‘recall’ means any measure aimed at achieving the return of marine equipment that has already been placed on board EU ships or purchased with the intention of being placed on board EU ships;
 - (20) ‘withdrawal’ means any measure aimed at preventing marine equipment in the supply chain from being made available on the market;

- (21) ‘EU declaration of conformity’ means a statement issued by the manufacturer in accordance with Article 16;
- (22) ‘product’ means an item of marine equipment.

Article 3

Scope

1 This Directive shall apply to equipment placed or to be placed on board an EU ship and for which the approval of the flag State administration is required by the international instruments, regardless of whether the ship is situated in the Union at the time when it is fitted with the equipment.

2 Notwithstanding the fact that the equipment referred to in paragraph 1 may also fall within the scope of instruments of Union law other than this Directive, that equipment shall, for the purpose set out in Article 1, be subject only to this Directive.

Article 4

Requirements for marine equipment

1 Marine equipment that is placed on board an EU ship on or after the date referred to in the second subparagraph of Article 39(1) shall meet the design, construction and performance requirements of the international instruments as applicable at the time when that equipment is placed on board.

2 Compliance of marine equipment with the requirements referred to in paragraph 1 shall be demonstrated solely in accordance with the testing standards and by means of the conformity assessment procedures referred to in Article 15.

3 The international instruments shall apply, without prejudice to the conformity checking procedure set out in Article 5 of Regulation (EC) No 2099/2002 of the European Parliament and of the Council⁽¹⁾.

4 The requirements and standards referred to in paragraphs 1 and 2 shall be implemented in a uniform manner, in accordance with Article 35(2).

Article 5

Application

1 When Member States issue, endorse or renew the certificates of the ships flying their flag as required by the international conventions, they shall ensure that the marine equipment on board those ships complies with the requirements of this Directive.

2 Member States shall take the necessary measures to ensure that marine equipment on board ships flying their flag complies with the requirements in the international instruments which are applicable to equipment already placed on board. Implementing powers shall be conferred upon the Commission to ensure the uniform application of those measures, in accordance with Article 35(3).

Article 6

Functioning of the internal market

Member States shall not prohibit the placing on the market or the placing on board an EU ship of marine equipment which complies with this Directive, nor refuse to issue the certificates relating thereto to the ships flying their flag, or to renew the said certificates.

Article 7

Transfer of a ship to the flag of a Member State

1 In the case of a non-EU ship which is to be transferred to the flag of a Member State, that ship shall, during transfer, be subject to inspection by the receiving Member State to verify that the actual condition of its marine equipment corresponds to its safety certificates and either complies with this Directive and bears the wheel mark or is equivalent, to the satisfaction of that Member State's administration, to marine equipment certified in accordance with this Directive as of 18 September 2016.

2 In cases where the date of installation on board of marine equipment cannot be established, Member States may determine satisfactory requirements of equivalence, taking into account relevant international instruments.

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

4 Marine equipment which is considered equivalent pursuant to this Article shall be issued with a certificate by the Member State which shall at all times be carried with the equipment. That certificate shall give the flag Member State's permission for the equipment to be retained on board the ship and impose any restrictions or lay down any provisions relating to the use of the equipment.

Article 8

Standards for marine equipment

1 Without prejudice to Directive 98/34/EC of the European Parliament and the Council⁽²⁾, as amended by Regulation (EU) No 1025/2012 of the European Parliament and of the Council⁽³⁾, the Union shall pursue the development by the IMO and by standardisation bodies of appropriate international standards, including detailed technical specifications and testing standards, for marine equipment whose use or installation on board ships is deemed necessary to enhance maritime safety and the prevention of marine pollution. The Commission shall monitor such development on a regular basis.

2 In the absence of an international standard for a specific item of marine equipment, in exceptional circumstances where duly justified by an appropriate analysis and in order to remove a serious and unacceptable threat to maritime safety, to health or to the environment and taking into account any ongoing work at IMO level, the Commission shall be empowered to adopt, by means of delegated acts in accordance with Article 37, harmonised technical specifications and testing standards for that specific item of marine equipment.

It is of particular importance that the Commission carry out consultations with experts, including Member States' experts, during the preparation of such delegated acts.

Those technical specifications and testing standards shall apply on an interim basis until such time as the IMO has adopted a standard for that specific item of marine equipment.

3 In exceptional circumstances where duly justified by an appropriate analysis and if it is necessary to remove an identified unacceptable threat to maritime safety, to health or to the environment due to a serious weakness or anomaly in an existing standard for a specific item of marine equipment indicated by the Commission pursuant to Article 35(2) or (3) and taking into account any ongoing work at IMO level, the Commission shall be empowered to adopt, by means of delegated acts in accordance with Article 37, harmonised technical specifications and testing standards for that specific item of marine equipment, to the extent necessary to remedy the serious weakness or anomaly only.

It is of particular importance that the Commission carry out consultations with experts, including Member States' experts, during the preparation of such delegated acts.

Those technical specifications and testing standards shall apply on an interim basis until such time as the IMO has reviewed the standard applicable to that specific item of marine equipment.

4 The technical specifications and standards adopted in accordance with paragraphs 2 and 3 shall be made accessible free of charge by the Commission.

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- (1) Regulation (EC) No 2099/2002 of the European Parliament and of the Council of 5 November 2002 establishing a Committee on Safe Seas and the Prevention of Pollution from Ships (COSS) ([OJ L 324, 29.11.2002, p. 1.](#)).
- (2) Directive 98/34/EC of the European Parliament and the Council of 22 June 1998 laying down a procedure for the provision of information in the field of technical standards and regulations ([OJ L 204, 21.7.1998, p. 37.](#)).
- (3) Regulation (EU) No 1025/2012 of the European Parliament and of the Council of 25 October 2012 on European standardisation, amending Council Directives 89/686/EEC and 93/15/EEC and Directives 94/9/EC, 94/25/EC, 95/16/EC, 97/23/EC, 98/34/EC, 2004/22/EC, 2007/23/EC, 2009/23/EC and 2009/105/EC of the European Parliament and of the Council and repealing Council Decision 87/95/EEC and Decision No 1673/2006/EC of the European Parliament and of the Council ([OJ L 316, 14.11.2012, p. 12.](#)).