

Directive (EU) 2017/2397 of the European Parliament and of the Council of 12 December 2017 on the recognition of professional qualifications in inland navigation and repealing Council Directives 91/672/EEC and 96/50/EC (Text with EEA relevance)

CHAPTER 5

FINAL PROVISIONS

Article 31

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.

2 The power to adopt delegated acts referred to in Article 17(1) and (4), Article 21(2), Article 23(6) and Article 25(1) and (2) shall be conferred on the Commission for a period of five years from 16 January 2018. 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 this Article 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 this Article 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.

Article 32

CESNI Standards and Delegated Acts

Delegated acts adopted under this Directive shall, except for those based on Article 25, make reference to standards established by CESNI, provided that:

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- (a) those standards are available and up-to-date;
- (b) those standards comply with any applicable requirements set out in the Annexes;
- (c) Union interests are not compromised by changes in the decision-making process of CESNI.

Where these conditions are not met, the Commission may provide or refer to other standards.

Where delegated acts adopted under this Directive refer to standards, the Commission shall include the entire text of those standards in those delegated acts, and shall make or update the relevant reference and enter the date of application in Annex IV.

Article 33

Committee procedure

1 The Commission shall be assisted by a committee. That committee shall be a committee within the meaning of Regulation (EU) No 182/2011. References to the committee set up pursuant to Article 7 of Directive 91/672/EEC, which is repealed by this Directive, shall be construed as references to the committee set up by this Directive.

2 Where reference is made to this paragraph, Article 4 of Regulation (EU) No 182/2011 shall apply.

Where the opinion of the Committee is to be obtained by written procedure, that procedure shall be terminated without result when, within the time-limit for delivery of the opinion, the chair of the committee so decides.

3 Where reference is made to this paragraph, Article 5 of Regulation (EU) No 182/2011 shall apply. If the committee's opinion is to be obtained by written procedure, its chair may decide to terminate the procedure without result within the time-limit for the delivery of the opinion.

Article 34

CESNI Standards and Implementing Acts

When adopting the implementing acts referred to in Articles 11(3), 18(3) and 22(4) the Commission shall make reference to standards established by CESNI, and set the date of application, provided that:

- (a) those standards are available and up-to-date;
- (b) those standards comply with any applicable requirements set out in the Annexes;
- (c) Union interests are not compromised by changes in the decision-making process of CESNI.

Where these conditions are not met, the Commission may provide or refer to other standards.

Where implementing acts adopted under this Directive refer to standards, the Commission shall include the entire text of those standards in those implementing acts.

Article 35

Review

1 The Commission shall evaluate this Directive together with the implementing and delegated acts referred to in this Directive, and shall submit the results of the evaluation to the European Parliament and the Council no later than 17 January 2030.

2 By 17 January 2028, each Member State shall make available to the Commission the information needed for the purposes of monitoring the implementation and evaluation of this Directive, in accordance with guidelines provided by the Commission in consultation with Member States as regards information collection, format and content.

Article 36

Phasing-in

1 The Commission shall adopt delegated acts referred to in Article 17(1) and (4), Article 21(2), Article 23(6) and Article 25(1) and (2) by 17 January 2020.

At the latest 24 months after the adoption of the delegated acts referred to in Article 25(2), the Commission shall set up the database provided for in that Article.

2 The Commission shall adopt implementing acts referred to in Article 11(3), Article 18(3) and Article 22(4) by 17 January 2020.

Article 37

Repeal

Directives 91/672/EEC and 96/50/EC are repealed with effect from 18 January 2022.

References to the repealed Directives shall be construed as references to this Directive.

Article 38

Transitional provisions

1 Boatmasters' certificates issued in accordance with Directive 96/50/EC and certificates referred to in Article 1(6) of Directive 96/50/EC, as well as Rhine navigation licences referred to in Article 1(5) of Directive 96/50/EC, that were issued prior to 18 January 2022, shall remain valid on the Union inland waterways for which they were valid before that date, for a maximum of 10 years after that date.

Before 18 January 2032, the Member State that issued the certificates referred to in the first subparagraph shall issue to boatmasters who hold such certificates in accordance with the model prescribed by this Directive, upon their request, a Union certificate of qualification or a certificate as referred to in Article 10(2), subject to the boatmaster having provided satisfactory documentary evidence as referred to in points (a) and (c) of Article 11(1).

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2 When issuing Union certificates of qualification in accordance with paragraph 1 of this Article, Member States shall safeguard previously granted entitlements as far as possible, in particular as regards the specific authorisations referred to in Article 6.

3 Crew members, other than boatmasters, who hold a certificate of qualification issued by a Member State prior to 18 January 2022, or who hold a qualification recognised in one or more Member States, may still rely on that certificate or qualification for a maximum of 10 years after that date. During that period, such crew members may continue to rely on Directive 2005/36/EC for the recognition of their qualification by other Member States' authorities. Before the expiry of that period, they may apply to a competent authority issuing such certificates for a Union certificate of qualification or a certificate in application of Article 10(2), subject to the crew members having provided satisfactory evidence as referred to in points (a) and (c) of Article 11(1).

Where crew members referred to in the first subparagraph of this paragraph apply for a Union certificate of qualification or a certificate referred to in Article 10(2), Member States shall ensure that a certificate of qualification is issued for which the competence requirements are similar to or lower than those of the certificate to be replaced. A certificate for which the requirements are higher than those of the certificate to be replaced shall only be issued where the following conditions are met:

- a for the Union certificate of qualification as a boatman: 540 days of navigation time, including at least 180 days in inland navigation;
- b for the Union certificate of qualification as an able boatman: 900 days of navigation time, including at least 540 days in inland navigation;
- c for the Union certificate of qualification as a helmsman: 1 080 days of navigation time, including at least 720 days in inland navigation.

The navigation experience shall be demonstrated by means of a service record book, logbook or other proof.

The minimum durations of the navigation time as set in points (a), (b) and (c) of the second subparagraph of this paragraph may be reduced by a maximum of 360 days of navigation time where the applicant has a diploma which is recognised by the competent authority and which confirms the applicant's specialised training in inland navigation comprising practical navigation work. The reduction of the minimum duration may not be greater than the duration of the specialised training.

4 Service record books and logbooks issued prior to 18 January 2022 that were issued in accordance with rules other than those set out by this Directive may remain active for a maximum of 10 years after 18 January 2022.

5 By way of derogation from paragraph 3, for crew members on ferries who hold national certificates that do not fall within the scope of Directive 96/50/EC and that were issued prior to 18 January 2022, such certificates shall remain valid on those Union inland waterways for which they were valid before this date for a maximum of 20 years after that date.

Before the expiry of that period, such crew members may apply to a competent authority issuing such certificates for a Union certificate of qualification or for a certificate referred to in Article 10(2), on condition that they provide satisfactory evidence as referred to in points (a) and (c) of Article 11(1). The second and the third subparagraph of paragraph 3 of this Article shall apply accordingly.

6 By way of derogation from Article 4(1), until 17 January 2038, Member States may allow boatmasters who sail sea-going ships operating on specific inland waterways to carry a

certificate of competency for masters that has been issued in accordance with the provisions of the STCW Convention, provided that:

- a this inland navigation activity is performed at the beginning or at the end of a maritime transport journey; and
- b the Member State has recognised certificates referred to in this paragraph for at least five years on 16 January 2018 on the inland waterways concerned.

Article 39

Transposition

1 Member States shall bring into force the laws, regulations and administrative provisions necessary to comply with this Directive by 17 January 2022. They shall immediately inform the Commission thereof.

When Member States adopt those measures, they shall contain a reference to this Directive or be accompanied by such a reference on the occasion of their official publication. The methods of making such reference shall be laid down by Member States.

2 By way of derogation from paragraph 1 of this Article, a Member State in which all persons referred to in Article 4(1), Article 5(1) and Article 6 operate exclusively on national inland waterways that are not linked to the navigable network of another Member State shall only be obliged to bring into force those measures which are necessary to ensure compliance with Articles 7, 8, 10 as regards recognition of certificates of qualification and the service record book, Article 14(2) and (3) as regards suspensions, the second subparagraph of Article 22(1) and (2), point (d) of Article 26(1) where applicable, points (e) and (h) of Article 26(1), Article 26(2), Article 29 as regards prevention of fraud, Article 30 as regards penalties and Article 38 with the exception of paragraph 2 of that Article as regards transitional provisions. Such Member State shall bring those measures into force by 17 January 2022.

Such Member State may not issue Union certificates of qualifications or approve training programmes or simulators until it has transposed and implemented the remaining provisions of this Directive and has informed the Commission that it has done so.

3 By way of derogation from paragraph 1 of this Article, a Member State in which all persons are exempted pursuant to Article 2(3) shall only be obliged to bring into force those measures which are necessary to ensure compliance with Article 10 as regards recognition of certificates of qualification and the service record book, with Article 38 as regards recognition of valid certificates, as well as with Article 15. Such Member State shall bring those measures into force by 17 January 2022.

Such Member State may not issue Union certificates of qualification or approve training programmes or simulators until it has transposed and implemented the remaining provisions of this Directive and has informed the Commission that it has done so.

4 By way of derogation from paragraph 1 of this Article, a Member State shall not be obliged to transpose this Directive as long as inland waterway navigation is not technically possible on its territory.

Such Member State may not issue Union certificates of qualification or approve training programmes or simulators until it has transposed and implemented the provisions of this Directive and informed the Commission that it has done so.

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5 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 40

Entry into force

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

Article 41

Addressees

This Directive is addressed to the Member States.