Council Directive 96/50/EC of 23 July 1996 on the harmonization of the conditions for obtaining national boatmasters' certificates for the carriage of goods and passengers by inland waterway in the Community

COUNCIL DIRECTIVE 96/50/EC

of 23 July 1996

on the harmonization of the conditions for obtaining national boatmasters' certificates for the carriage of goods and passengers by inland waterway in the Community

THE COUNCIL OF THE EUROPEAN UNION

Having regard to the Treaty establishing the European Community, and in particular Article 75 thereof,

Having regard to the proposal from the Commission[(1)],

Having regard to the opinion of the Economic and Social Committee[(2)],

Acting in accordance with the procedure referred to in Article 189c of the Treaty[(3)],

Whereas common provisions on the sailing of inland waterway vessels on the Community's inland waterways should be introduced; whereas a first step towards this goal was accomplished with the adoption of Council Directive 91/672/EEC of 19 December 1991 on the reciprocal recognition of national boatmasters' certificates for the carriage of goods and passengers by inland waterway[(4)];

Whereas, because of differences in national legislation relating to the conditions for obtaining boatmasters' certificates for inland navigation and the need to make safety requirements in the inland navigation industry gradually stricter, Community rules for the issue of such certificates should be adopted in order to prevent any distorsions of competition;

Whereas, in order to guarantee the necessary uniformity and transparency, the Community should define a model for a single national boatmasters' certificate, mutually recognized by the Member States with no exchange obligation, responsibility for the granting of which would, in accordance with the subsidiarity principle, lie with the Member States;

Whereas national navigable waterways not linked to the navigable network of another Member State are not subject to international competition and it is therefore not necessary to make compulsory on those waterways the common provisions for the granting of boatmasters' certificates laid down in this Directive;

Whereas the main objective of these common provisions must be to improve the safety of navigation and the protection of human life; whereas it appears therefore essential that these provisions establish the minimum requirements which the applicant must meet in order to obtain the boatmasters' certificate for inland navigation;

Whereas the requirements in question must concern at least the age required to sail a vessel, the physical and mental fitness of applicants, their professional experience and knowledge of certain

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subjects relating to the sailing of a vessel; whereas, in the interests of the safety of the vessel and of the persons on board, Member States may impose additional requirements regarding in particular the knowledge of certain local situations; whereas additional professional knowledge is required to navigate with the aid of radar or to sail a vessel carrying passengers;

Whereas it is necessary to make provision for appropriate procedures to adapt the Annexes of this Directive; whereas it is thus appropriate that the Committee set up by Article 7 of Directive 91/672/EEC should assist the Commission in adapting the Annexes,

HAS ADOPTED THIS DIRECTIVE:

Article 1

1 Member States issuing a boatmasters' certificate for the carriage of goods and passengers by inland waterway, hereinafter referred to as the ‘certificate’, shall do so in accordance wit the Community model described in Annex I, which complies with this Directive.

2 Member States shall take all appropriate measures to preclude the risk of certificates being forged.

3 The certificate shall be issued by the competent authority of the Member States in accordance with this Directive. It shall take account of the special characteristics of the waterways and of the certificates referred to in Article 1 of Directive 91/672/EEC, namely:

— the boatmasters' certificate valid for all waterways in the Member States, with the exception of waterways to which the Regulation on the issue of Rhine navigation licences applies (Group A),

— the boatmasters' certificate valid for all waterways in the Member States, with the exception of the waterways of a maritime character referred to in Annex II to Directive 91/672/EEC, and with the exception of waterways to which the Regulation on the issue of Rhine navigation licences applies (Group B).

4 The Group A or Group B certficate issued by Member States in conformity with this Directive shall be valid for all Group A or Group B waterways in the Community.

5 Subject to Article 8 (2), the Rhine navigation licence, issued in accordance with the revised Convention for the Navigation of the Rhine, shall be valid for all waterways in the Community.

6 The national boatmasters' certificates mutually recognized by Directive 91/672/EEC, appearing in Annex I to this Directive, which are issued not later than 18 months after the date of entry into force of this Directive shall remain valid with no exchange obligation.

Article 2

For the purposes of this Directive:

(a) ‘competent authority’ shall mean the authority designated by a Member State to issue certificates after verifying that applicants satisfy the requirements;

(b) ‘boatmaster’ shall mean the person who has the necessary aptitude and qualifications to sail a vessel on the Member States' waterways and who has nautical responsibility on board;

(c) ‘member of the deck crew’ shall mean a person who has regularly participated in sailing a vessel in inland navigation, including manning the tiller.

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Article 3

1 This Directive shall apply to all boatmasters of inland-waterway vessels: self-propelled barges, tugs, pusher craft, barges, pushed convoys or side-by-side formations, intended for the transport of goods or passengers, except for:

— boatmasters of vessels intended for goods transport which are under 20 metres in length,

— boatmasters of vessels intended for passenger transport, which carry no more than 12 people in addition to the crew.

2 A Member State may, after consulting the Commission, exempt from the application of this Directive boatmasters operating exclusively on national waterways not linked to the navigable network of another Member State and issue them with national boatmasters' certificates, the conditions for obtaining which may differ from those defined in this Directive. The validity of those national certificates shall in that case be limited to those waterways.

Article 4

1 In order to obtain a certificate, an applicant must satisfy the minimum requirements set out in Articles 5 to 8. The certificate shall mention whether the boatmaster has Group A or Group B authorization.

2 The certificates issued by the Member States which meet the minimum requirements mentioned in paragraph 1 shall be mutually recognized.

Article 5

An applicant must be at least 21 years old to obtain a certificate. However, Member States may still issue certificates to persons 18 years old or older. Recognition by a Member State of a Group A or B certificate issued by another Member State may be subject to the same minimum age conditions as are required in that Member State for the issue of a certificate for the same Group.

Article 6

1 The applicant shall provide proof of physical and mental fitness by passing a medical examination carried out by a doctor recognized by the competent authority. That examination shall cover in particular visual and auditory acuity, colour vision, motricity of the upper and lower limbs and the neuro-psychiatric state and cardiovascular condition of the applicant.

2 On reaching the age of 65 years, the holder of a certificate must, in the following three months and subsequently every year, undergo the examination referred to in paragraph 1; the competent authority shall attest on the certificate that the boatmaster has satisfied this obligation.

Article 7

1 An applicant must provide proof of at least four years' professional experience as a member of the deck crew on an inland waterway vessel.

2 To be taken into account, professional experience must be validated by the competent authority of the Member State by being entered in a personal service record. It may have been acquired on any of the Member States' waterways. In the case of waterways part of whose courses are within Community territory, such as the Danube, Elbe and Oder, the professional experience acquired on all sections of those watercourses will be taken into consideration.

3 The minimum duration of the professional experience referred to in paragraph 1 may be reduced by a maximum of three years:

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a where the applicant has a diploma recognized by the competent authority which confirms specialized training in inland navigation comprising practical navigation work; the reduction may not be greater than the duration of the specialized training; or

b where the applicant can provide proof of professional experience acquired on a seagoing vessel as a member of the deck crew; in order to obtain the maximum reduction of three years, the applicant must provide proof of at least four years' experience in maritime navigation.

4 The minimum duration of professional experience provided for in paragraph 1 may be reduced by a maximum of three years where the applicant has passed a practical examination in sailing a vessel; the certificate shall in that case cover only vessels with nautical characteristics similar to those of the vessel which underwent the practical examination.

Article 8

1 An applicant must have passed an examination of professional knowledge; that examination must include at least the general subjects listed in Chapter A of Annex II.

2 Subject to consultation of the Commission, a Member State may require a boatmaster to satisfy additional requirements concerning knowledge of the local situation for navigation of certain waterways, with the exception of the waterways of a maritime character referred to in Annex II to Directive 91/672/EEC.

Subject to the same reservation, a Member State may require the boatmaster of a passenger vessel, in certain limited transport areas, to have more detailed professional knowledge of special provisions relating to passenger safety, particularly in the event of accidents, fire or shipwreck.

Article 9

1 In order to be authorized to navigate with the aid of radar, the boatmaster must hold a special attestation delivered by the competent authority as proof that he has passed the examination covering professional knowledge of the subjects referred to in Chapter B of Annex II.

The Member States shall recognize the qualification issued under the regulation of the issuing of qualifications to sail a vessel with the aid of radar on the Rhine.

2 An applicant satisfying the conditions set out in paragraph 1 shall have his or her fitness to navigate by radar attested by the competent authority in the form of an endorsement on the certificate.

Article 10

In order to be allowed to sail a boat transporting passengers on the waterways of the Member States, either the boatmaster or another member of the crew must be in possession of a special certificate issued by the competent authority as proof of his/her having passed an examination of professional knowledge in the subjects referred to in Chapter C of Annex II.

***[F1** Article 11*

The Commission may adapt the form of the boatmasters' certificate set out in Annex I to developments regarding the professional knowledge required for the issue of the certificate and specified in Annex II. Those measures, designed to amend non-essential elements of this Directive, *inter alia*, by supplementing it, shall be adopted in accordance with the regulatory procedure with scrutiny referred to in Article 12(2).**]**

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Textual Amendments

F1 Substituted by Regulation (EC) No 1137/2008 of the European Parliament and of the Council of 22 October 2008 adapting a number of instruments subject to the procedure laid down in Article 251 of the Treaty to Council Decision 1999/468/EC, with regard to the regulatory procedure with scrutiny Adaptation to the regulatory procedure with scrutiny — Part One.

[F1 Article 12

1 The Commission shall be assisted by the committee set up by Article 7 of Directive 91/672/EEC.

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.**]**

Textual Amendments

F1 Substituted by Regulation (EC) No 1137/2008 of the European Parliament and of the Council of 22 October 2008 adapting a number of instruments subject to the procedure laid down in Article 251 of the Treaty to Council Decision 1999/468/EC, with regard to the regulatory procedure with scrutiny Adaptation to the regulatory procedure with scrutiny — Part One.

Article 13

1 Member States shall bring into force the laws, regulations and administrative provisions necessary to comply with this Directive not later than 18 months after the date of entry into force of this Directive. They shall immediately inform the Commission thereof.

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

2 Member States shall immediately communicate to the Commission the text of the provisions they adopt in the field governed by this Directive.

3 Where necessary, Member States shall assist one another in the implementation of this Directive.

Article 14

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

Article 15

This Directive is addressed to the Member States.