

DIRECTIVE 2002/84/EC OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL
of 5 November 2002
amending the Directives on maritime safety and the prevention of pollution from ships
(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 80(2) thereof,

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

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

Having regard to the opinion of the Committee of the Regions ⁽³⁾,

Acting in accordance with the procedure laid down in Article 251 of the Treaty ⁽⁴⁾,

Whereas:

- (1) The Directives in force in the field of maritime safety make reference to the committee set up by Council Directive 93/75/EEC of 13 September 1993 concerning minimum requirements for vessels bound for or leaving Community ports and carrying dangerous or polluting goods ⁽⁵⁾ and, in certain cases, to an ad hoc committee set up by the pertinent directive. These committees were governed by the rules set out in Council Decision 87/373/EEC of 13 July 1987 laying down the procedures for the exercise of implementing powers conferred on the Commission ⁽⁶⁾.
- (2) Decision 87/373/EEC has been replaced by Council Decision 1999/468/EC of 28 June 1999 laying down the procedures for the exercise of implementing powers conferred on the Commission ⁽⁷⁾. The measures required to implement the Directives in force in the field of maritime safety should be adopted in accordance with Council Decision 1999/468/EC.
- (3) 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) ⁽⁸⁾ centralises the tasks of the committees established under the pertinent Community legislation on maritime safety, the prevention of

pollution from ships and the protection of shipboard living and working conditions.

- (4) Council Directives 93/75/EEC, 94/57/EC ⁽⁹⁾, 95/21/EC ⁽¹⁰⁾, 96/98/EC ⁽¹¹⁾, 97/70/EC ⁽¹²⁾, 98/18/EC ⁽¹³⁾, 98/41/EC ⁽¹⁴⁾, 1999/35/EC ⁽¹⁵⁾, and Directives 2000/59/EC ⁽¹⁶⁾, 2001/25/EC ⁽¹⁷⁾ and 2001/96/EC ⁽¹⁸⁾ of the European Parliament and of the Council in the field of maritime safety should therefore be amended in order to replace the existing committees by COSS.
- (5) The aforementioned Directives should also be amended in order to apply to them the amendment procedures laid down by Regulation (EC) No 2099/2002 and the relevant provisions of that Regulation designed to facilitate their adaptation to take account of changes to the international instruments referred to in Community legislation in the field of maritime safety,

HAVE ADOPTED THIS DIRECTIVE:

Article 1

Purpose

The purpose of this Directive is to improve the implementation of Community legislation on maritime safety, the prevention of pollution from ships and shipboard living and working conditions:

- (a) by making reference to the COSS;
- (b) by accelerating the update and facilitating the amendment of such legislation in the light of developments in the international instruments applicable in the field of maritime safety, prevention of pollution from ships and shipboard living and working conditions, pursuant to Regulation (EC) No 2099/2002.

⁽¹⁾ OJ C 365 E, 19.12.2000, p. 280.

⁽²⁾ OJ C 139, 11.5.2001, p. 21.

⁽³⁾ OJ C 253, 12.9.2001, p. 1.

⁽⁴⁾ Opinion of the European Parliament of 13 February 2001 (OJ C 276, 1.10.2001, p. 44), Council Common Position of 27 May 2002 (OJ C 170 E, 16.7.2002, p. 98) and Decision of the European Parliament of 24 September 2002 (not yet published in the Official Journal).

⁽⁵⁾ OJ L 247, 5.10.1993, p. 19. Directive as last amended by Commission Directive 98/74/EC (OJ L 276, 13.10.1998, p. 7).

⁽⁶⁾ OJ L 197, 18.7.1987, p. 33.

⁽⁷⁾ OJ L 184, 17.7.1999, p. 23.

⁽⁸⁾ See page 1 of this Official Journal.

⁽⁹⁾ OJ L 319, 12.12.1994, p. 20. Directive as last amended by European Parliament and Council Directive 2001/105/EC (OJ L 19, 22.1.2002, p. 9).

⁽¹⁰⁾ OJ L 157, 7.7.1995, p. 1. Directive as last amended by European Parliament and Council Directive 2001/106/EC (OJ L 19, 22.1.2002, p. 17).

⁽¹¹⁾ OJ L 46, 17.2.1997, p. 25. Directive as last amended by Commission Directive 2002/75/EC (OJ L 254, 23.9.2002, p. 1).

⁽¹²⁾ OJ L 34, 9.2.1998, p. 1. Directive as last amended by Commission Directive 2002/35/EC (OJ L 112, 27.4.2002, p. 4).

⁽¹³⁾ OJ L 144, 15.5.1998, p. 1. Directive as amended by Commission Directive 2002/25/EC (OJ L 98, 15.4.2002, p. 1).

⁽¹⁴⁾ OJ L 188, 2.7.1998, p. 35.

⁽¹⁵⁾ OJ L 138, 1.6.1999, p. 1.

⁽¹⁶⁾ OJ L 332, 28.12.2000, p. 81.

⁽¹⁷⁾ OJ L 136, 18.5.2001, p. 17.

⁽¹⁸⁾ OJ L 13, 16.1.2002, p. 9.

Article 2

Amendment to Directive 93/75/EEC

Directive 93/75/EEC is hereby amended as follows:

1. in Article 2, points (e), (f), (g), (h) and (i) shall be replaced by the following:

- (e) "Marpol 73/78" means the International Convention for the Prevention of Pollution from Ships, 1973, as amended by the Protocol of 1978 relating thereto, in their up-to-date versions;
- (f) "IMDG Code" means the International Maritime Dangerous Goods Code, in its up-to-date version;
- (g) "IBC Code" means the IMO International Code for construction and equipment of ships carrying dangerous chemicals in bulk, in its up-to-date version;
- (h) "IGC Code" means the IMO International Code for the construction and equipment of ships carrying liquefied gases in bulk, in its up-to-date version;
- (i) "INF Code" means the IMO code for the safe carriage of irradiated nuclear fuel, plutonium and high-level radioactive wastes in flasks on board ships, in its up-to-date version;

2. the following subparagraph shall be added to Article 11:

'The amendments to the international instruments referred to in Article 2 may be excluded from the scope of this Directive, pursuant to Article 5 of 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.;

3. Article 12 shall be replaced by the following:

Article 12

1. The Commission shall be assisted by the Committee on Safe Seas and the Prevention of Pollution from Ships (COSS) created by Article 3 of Regulation (EC) No 2099/2002.

2. Where reference is made to this paragraph, Articles 5 and 7 of Council Decision 1999/468/EC of 28 June 1999 laying down the procedures for the exercise of implementing powers conferred on the Commission (*) shall apply, having regard to the provisions of Article 8 thereof.

The period laid down in Article 5(6) of Decision 1999/468/EC shall be set at two months.

3. The Committee shall adopt its rules of procedure.

(*) OJ L 184, 17.7.1999, p. 23.'

Article 3

Amendment to Directive 94/57/EC

Directive 94/57/EC is hereby amended as follows:

1. in Article 2(d), the words 'in force on 19 December 2001' shall be replaced by 'in its up-to-date version';
2. in Article 7, point 1 shall be replaced by the following:

'1. The Commission shall be assisted by the Committee on Safe Seas and the Prevention of Pollution from Ships (COSS) created by Article 3 of 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.;

3. the following subparagraph shall be added to Article 8(2):

'The amendments to the international instruments referred to in Article 2(d) and Article 6 may be excluded from the scope of this Directive, pursuant to Article 5 of Regulation (EC) No 2099/2002.'

Article 4

Amendment to Directive 95/21/EC

Directive 95/21/EC is hereby amended as follows:

1. Article 2 shall be amended as follows:

- (a) in point 1, the words 'in force on 19 December 2001' shall be replaced by 'in its up-to-date version';
- (b) in point 2, the words 'as it stands on 19 December 2001' shall be replaced by 'in its up-to-date version';

2. in Article 18, point 1 shall be replaced by the following:

'1. The Commission shall be assisted by the Committee on Safe Seas and the Prevention of Pollution from Ships (COSS) created by Article 3 of 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.;

3. Article 19 is hereby amended as follows:

- (a) point (c) shall be replaced by the following:

'(c) update, in Article 2(1), the list of international conventions which are relevant for the purposes of this Directive.'

- (b) the following subparagraph shall be added:

'The amendments to the international instruments referred to in Article 2 may be excluded from the scope of this Directive, pursuant to Article 5 of Regulation (EC) No 2099/2002.'

Article 5

Amendment to Directive 96/98/EC

Directive 96/98/EC is hereby amended as follows:

1. in Article 2, points (c), (d) and (n), the words 'in force on 1 January 2001' shall be replaced by 'in its up-to-date version';
2. Article 17 shall be replaced by the following:

'Article 17

This Directive may be amended in accordance with the procedure laid down in Article 18(2), in order:

- to apply subsequent amendments of international instruments for the purposes of this Directive,
- to update Annex A, both by introducing new equipment and by transferring equipment from Annex A.2 to Annex A.1 and vice versa,
- to add the possibility of using modules B and C and module H for equipment listed in Annex A.1, and by amending the columns for the conformity assessment modules,
- to include other standardisation organisations in the definition of "testing standards" in Article 2.

The conventions and testing standards referred to in points (c), (d) and (n) of Article 2 shall be understood without prejudice to any measures taken in application of Article 5 of 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.;

3. Article 18 shall be replaced by the following:

'Article 18

1. The Commission shall be assisted by the Committee on Safe Seas and the Prevention of Pollution from Ships (COSS) created by Article 3 of Regulation (EC) No 2099/2002.
2. Where reference is made to this paragraph, Articles 5 and 7 of Council Decision 1999/468/EC of 28 June 1999 laying down the procedures for the exercise of implementing powers conferred on the Commission (*) shall apply, having regard to the provisions of Article 8 thereof.

The period laid down in Article 5(6) of Decision 1999/468/EC shall be set at two months.

3. The Committee shall adopt its rules of procedure.

(* OJ L 184, 17.7.1999, p. 23.'

Article 6

Amendment to Directive 97/70/EC

Directive 97/70/EC is hereby amended as follows:

1. the following subparagraph shall be added to Article 8:

'The amendments to the international instrument referred to in Article 2(4) may be excluded from the scope of this Directive, pursuant to Article 5 of 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. Article 9 shall be replaced by the following:

'Article 9

Committee

1. The Commission shall be assisted by the Committee on Safe Seas and the Prevention of Pollution from Ships (COSS) created by Article 3 of Regulation (EC) No 2099/2002.

2. Where reference is made to this paragraph, Articles 5 and 7 of Council Decision 1999/468/EC of 28 June 1999 laying down the procedures for the exercise of implementing powers conferred on the Commission (*) shall apply, having regard to the provisions of Article 8 thereof.

The period laid down in Article 5(6) of Decision 1999/468/EC shall be set at two months.

3. The Committee shall adopt its rules of procedure.

(* OJ L 184, 17.7.1999, p. 23.'

Article 7

Amendment to Directive 98/18/EC

Directive 98/18/EC is hereby amended as follows:

1. in Article 2, points (a), (b), (c), (d) and (f) shall be replaced by the following:

'(a) "International Conventions" means the 1974 International Convention for the Safety of Life at Sea (the 1974 Solas Convention), and the 1966 International Convention on Load Lines, together with Protocols and amendments thereto, in their up-to-date versions;

(b) "Intact Stability Code" means the "Code on Intact Stability for all types of ships covered by IMO Instruments" contained in IMO Assembly Resolution A.749(18) of 4 November 1993, in its up-to-date version;

(c) "High Speed Craft Code" means the "International Code for Safety of High Speed Craft" contained in IMO Maritime Safety Committee Resolution MSC 36 (63) of 20 May 1994, in its up-to-date version;

(d) "GMDSS" means the Global Maritime Distress and Safety System as laid down in Chapter IV of the 1974 Solas Convention, in its up-to-date version;

(...)

(f) "a high speed passenger craft" means a high speed craft as defined in Regulation X/1 of the 1974 Solas Convention, in its up-to-date version, which carries more than 12 passengers; passenger ships engaged on domestic voyages in sea areas of Class B, C or D shall not be considered as high speed passenger craft when:

- their displacement corresponding to the design waterline is less than 500 m³, and
- their maximum speed, as defined in paragraph 1.4.30 of the High Speed Craft Code, is less than 20 knots;

2. in Article 6(1), points (b) and (c), Article 6(2), point (a)(i), and Article 6(3), point (a), the words as amended at the date of adoption of this Directive shall be replaced by in its up-to-date version;
3. Article 8 shall be replaced by the following:

'Article 8

Adaptations

In accordance with the procedure laid down in Article 9(2):

- (a) (i) the definitions in Article 2(a), (b), (c), (d) and (t); and
- (ii) the provisions relating to procedures and guidelines for surveys referred to in Article 10;
- (iii) the provisions concerning the Solas Convention and the International Code of Safety of High Speed Craft, and including its subsequent amendments laid down in Articles 4.3, 6.4, 10.3 and 11.3; and
- (iv) the specific references to the "International Conventions" and IMO resolutions referred to in Articles 2(f), (k) and (o), 3.2(a), 6.1(b) and (c), 6.2(b) and 11.3,

may be adapted in order to take account of developments at international level, in particular within IMO;

- (b) Annexes may be amended in order to:
 - (i) apply, for the purpose of this Directive, amendments made to international conventions;
 - (ii) improve the technical specifications thereof, in the light of experience.

The amendments to the international instruments referred to in Article 2 may be excluded from the scope of this Directive, pursuant to Article 5 of 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.;

4. Article 9 shall be replaced by the following:

'Article 9

Committee

1. The Commission shall be assisted by the Committee on Safe Seas and the Prevention of Pollution from Ships

(COSS) created by Article 3 of Regulation (EC) No 2099/2002.

2. Where reference is made to this paragraph, Articles 5 and 7 of Council Decision 1999/468/EC of 28 June 1999 laying down the procedures for the exercise of implementing powers conferred on the Commission (*) shall apply, having regard to the provisions of Article 8 thereof.

The period laid down in Article 5(6) of Decision 1999/468/EC shall be set at two months.

3. The Committee shall adopt its rules of procedure.

(*) OJ L 184, 17.7.1999, p. 23.'

Article 8

Amendment to Directive 98/41/EC

Directive 98/41/EC is hereby amended as follows:

1. in Article 2, third indent, the words 'as in force at the time of the adoption of this Directive' shall be replaced by the words 'in its up-to-date version';
2. the following subparagraph shall be added to Article 12:

'The amendments to the international instruments referred to in Article 2 may be excluded from the scope of this Directive, pursuant to Article 5 of 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.;

3. Article 13 shall be replaced by the following:

'Article 13

1. The Commission shall be assisted by the Committee on Safe Seas and the Prevention of Pollution from Ships (COSS) created by Article 3 of Regulation (EC) No 2099/2002.

2. Where reference is made to this paragraph, Articles 5 and 7 of Council Decision 1999/468/EC of 28 June 1999 laying down the procedures for the exercise of implementing powers conferred on the Commission (*) shall apply, having regard to the provisions of Article 8 thereof.

The period laid down in Article 5(6) of Decision 1999/468/EC shall be set at two months.

3. The Committee shall adopt its rules of procedure.

(*) OJ L 184, 17.7.1999, p. 23.'

Article 9

Amendment to Directive 1999/35/EC

Directive 1999/35/EC is hereby amended as follows:

1. in Article 2, points (b), (d), (e) and (o) shall be replaced by the following:

'(b) "High Speed Passenger Craft" shall mean a high speed craft as defined in Regulation X/1 of the 1974 Solas Convention, in its up-to-date version, which carries more than 12 passengers;

(...)

(d) "1974 Solas Convention" shall mean the International Convention for the Safety of Life at Sea, together with Protocols and amendments thereto, in its up-to-date version;

(e) "High Speed Craft Code" shall mean the "International Code for Safety of High Speed Craft" contained in IMO Maritime Safety Committee Resolution MSC 36 (63) of 20 May 1994, in its up-to-date version;

(...)

(o) "company" shall mean a company operating one or more ro-ro ferries to which a document of compliance has been issued in compliance with Article 5(2) of Council Regulation (EC) No 3051/95 of 8 December 1995 on the safety management of roll on roll off passenger ferries (ro-ro ferries) or a company operating high speed passenger craft, to which a document of compliance has been issued in accordance with Regulation IX/4 of the 1974 Solas Convention, in its up-to-date version';

2. Article 16 shall be replaced by the following:

'Article 16

Committee

1. The Commission shall be assisted by the Committee on Safe Seas and the Prevention of Pollution from Ships (COSS) created by Article 3 of 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) (*).

2. Where reference is made to this paragraph, Articles 5 and 7 of Council Decision 1999/468/EC of 28 June 1999 laying down the procedures for the exercise of implementing powers conferred on the Commission (**) shall apply, having regard to the provisions of Article 8 thereof.

The period laid down in Article 5(6) of Decision 1999/468/EC shall be set at two months.

3. The Committee shall adopt its rules of procedure.

(*) OJ L 324, 29.11.2002, p. 1.

(**) OJ L 184, 17.7.1999, p. 23.;

3. the following subparagraph shall be added to Article 17:

'The amendments to the international instruments referred to in Article 2 may be excluded from the scope of this Directive, pursuant to Article 5 of Regulation (EC) No 2099/2002';

4. Annex I is hereby amended as follows:

in point 7, the words 'MSC Resolution... (70)' shall be replaced by the words 'IMO Assembly Resolution A.893(21)'.

Article 10

Amendment to Directive 2000/59/EC

Directive 2000/59/EC is hereby amended as follows:

1. in Article 2(b) the words 'as in force at the date of adoption of this Directive' shall be replaced by 'in its up-to-date version';

2. Article 14(1) shall be replaced by the following:

'1. The Commission shall be assisted by the Committee on Safe Seas and the Prevention of Pollution from Ships (COSS) created by Article 3 of Regulation (EC) No 2099/2002 of the European Parliament and of the Council establishing a Committee on Safe Seas and the Prevention of Pollution from Ships (COSS) (*).

(*) OJ L 324, 29.11.2002, p. 1.;

3. the following paragraph shall be added to Article 15:

'The amendments to the international instruments referred to in Article 2 may be excluded from the scope of this Directive, pursuant to Article 5 of Regulation (EC) No 2099/2002.'

Article 11

Amendment to Directive 2001/25/EC

Directive 2001/25/EC is hereby amended as follows:

1. in Article 1, points 16, 17, 18, 21, 22, 23 and 24 shall be replaced by the following:

'16. "chemical tanker" shall mean a ship constructed or adapted and used for the carriage in bulk of any liquid product listed in Chapter 17 of the International Bulk Chemical Code, in its up-to-date version;

17. "liquefied-gas tanker" shall mean a ship constructed or adapted and used for the carriage in bulk of any liquefied gas or other product listed in Chapter 19 of the International Gas Carrier Code, in its up-to-date version;

18. "Radio Regulations" shall mean the revised radio regulations, adopted by the World Administrative Radio Conference for the Mobile Service in their up-to-date version;

(...)

21. "STCW Convention" shall mean the International Convention on Standards of Training, Certification and Watchkeeping for Seafarers as it applies to the matters concerned taking into account the transitional provisions of Article VII and Regulation I/15 of the Convention and including, where appropriate, the applicable provisions of the STCW code, all being applied in its up-to-date version;

22. "radio duties" shall include, as appropriate, watch-keeping and technical maintenance and repairs conducted in accordance with the Radio Regulations, the International Convention for the Safety of Life at Sea (1974), (Solas Convention) and, at the discretion of each Member State, the relevant recommendations of the International Maritime Organisation (IMO), in their up-to-date versions;
23. "ro-ro passenger ship" shall mean a passenger ship with ro-ro cargo spaces or special-category spaces as defined in the Solas Convention, in its up-to-date version;
24. "STCW Code" shall mean the Seafarers' Training, Certification and Watchkeeping (STCW) Code as adopted by Resolution 2 of the 1995 STCW Conference of Parties, in its up-to-date version;
2. the following paragraph shall be added to Article 22:
- '4. The amendments to the international instruments referred to in Article 1 may be excluded from the scope of this Directive, pursuant to Article 5 of 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.'
3. in Article 23, point 1 shall be replaced by the following:
- '1. The Commission shall be assisted by the Committee on Safe Seas and the Prevention of Pollution from Ships (COSS) created by Article 3 of Regulation (EC) No 2099/2002.'

Article 12

Amendment to Directive 2001/96/EC

Directive 2001/96/EC is hereby amended as follows:

1. in Article 3(2), the words 'in force on 4 December 2001' shall be replaced by 'in its up-to-date version';
2. in Article 14, point 1 shall be replaced by the following:
- '1. The Commission shall be assisted by the Committee on Safe Seas and the Prevention of Pollution from Ships (COSS) created by Article 3 of 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.;

3. the following paragraph shall be added to Article 15:

'3. The amendments to the international instruments referred to in Article 3 may be excluded from the scope of this Directive, pursuant to Article 5 of Regulation (EC) No 2099/2002.'

Article 13

Implementation

1. Member States shall bring into force the laws, regulations and administrative provisions necessary to comply with this Directive no later than 23 November 2003. They shall forthwith inform the Commission thereof.

When Member States adopt those measures, they shall contain a reference to this Directive or shall 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 notify to the Commission the main provisions of their national law which they adopt in the field governed by this Directive.

Article 14

Entry into force

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

Article 15

Addressees

This Directive is addressed to the Member States.

Done at Brussels, 5 November 2002.

For the Parliament

The President

P. COX

For the Council

The President

T. PEDERSEN