



## Irish Statutory Instruments

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# S.I. No. 259/2009 - European Communities (Marine Equipment) Regulations 2009

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S.I. No. 259 of 2009

EUROPEAN COMMUNITIES (MARINE EQUIPMENT) REGULATIONS 2009

*Notice of the making of this Statutory Instrument was published in*

*"Iris Oifigiúil" of 10th July, 2009.*

I, NOEL DEMPSEY, Minister for Transport, in exercise of the powers conferred on me by section 3 of the European Communities Act 1972 (No. 27 of 1972), and for the purpose of giving further effect to Council Directive No. 96/98/EC 1 of 20 December 1996 (as amended by Commission Directive 98/85/EC 2 , Commission Directive 2001/53/EC 3 , Commission Directive 2002/75/EC 4 , Directive 2002/84/EC 5 of the European Parliament and of the Council and Commission Directive 2008/67/EC 6 ), hereby make the following regulations:

*Citation.*

1. These Regulations may be cited as the European Communities (Marine Equipment) Regulations 2009.

*Commencement.*

2. These Regulations come into force on 21 July 2009.

*Interpretation.*

3. (1) In these Regulations:

"Irish ship" means a ship registered in the State under the Merchant Shipping Acts 1894 to 2005 that falls within the scope of the international conventions mentioned in Article 2(d) of the Marine Equipment Directive;

"Marine Equipment Directive" means Council Directive No. 96/98/EC<sup>1</sup> of 20 December 1996 (as amended by Commission Directive 98/85/EC<sup>2</sup>, Commission Directive 2001/53/EC<sup>3</sup>, Commission Directive 2002/75/EC<sup>4</sup>, Directive 2002/84/EC<sup>5</sup> of the European Parliament and of the Council and Commission Directive 2008/67/EC<sup>6</sup>);

"the Minister" means the Minister for Transport.

(2) An expression used in the Marine Equipment Directive has the same meaning in these Regulations as in that Directive, unless the contrary intention appears.

*Prohibition on placing certain equipment on board Irish ships.*

4. Equipment of a kind specified in an item of Annex A.1 to the Marine Equipment Directive shall not be placed on board an Irish ship unless the equipment-

(a) meets the requirements of the international instruments specified in columns 3 and 4 of the item, and has been tested and assessed for conformity as specified in columns 5 and 6 of the item; and

(b) bears a mark of conformity in accordance with Annex D to that Directive.

*Exemption for replacement of equipment in foreign ports, etc.*

5. (1) This Regulation applies if-

(a) equipment needs to be replaced on an Irish ship in a port outside the Community, and

(b) it is not practicable, for reasons of time, cost or delay, to replace the equipment with equipment that complies with Regulation 4.

(2) Despite Regulation 4, if this Regulation applies, equipment (in this Regulation called "replacement equipment") that does not comply with the requirements of that Regulation may be placed on board an Irish ship-

(a) if an agreement has been concluded between the Community and the third country concerned on the mutual recognition of organisations equivalent to notified bodies, and the replacement equipment is accompanied by documentation issued by such an organisation; or

(b) if, although it is not possible to comply with subparagraph (a), the replacement equipment is accompanied by documentation, issued by a member State of the IMO which is party to the relevant conventions, certifying that the equipment complies with the relevant IMO requirements.

(3) The master of the ship concerned shall ensure that the Minister is notified, as soon as possible, of the nature and characteristics of the replacement equipment.

(4) It is a condition of the use of the replacement equipment that the equipment does not unduly affect the requirements of the radio-frequency spectrum.

*Revocation, etc., of safety certificates.*

6. If, on inspection by a ship surveyor appointed under the Merchant Shipping Acts 1894 to 2005 or a person appointed by the Minister for the purpose, any item of the equipment on an Irish ship that is required to comply with Regulation 4 does not do so, the Minister shall not grant a safety certificate, and may revoke any safety certificate already granted, for the ship.

*Inspection before registration of foreign ship.*

7. (1) If a new ship (within the meaning given by Article 2(1) of the Marine Equipment Directive) that is not registered in a Member State is to be registered in the State, the Minister shall cause equipment on board that is of a kind specified in an item of Annex A.1 to the Marine Equipment Directive to be inspected to verify that-

(a) the condition of the equipment corresponds to its safety certificates, and

(b) the equipment complies with Regulation 4 or an equivalent.

(2) If the Minister is not satisfied that equipment on a ship referred to in paragraph (1) complies with Regulation 4 or its equivalent, he or she shall direct the owner in writing to replace the equipment.

(3) Despite Regulation 4, if the Minister considers that equipment on board a ship referred to in paragraph (1) does not comply with Regulation 4 but is equivalent to equipment that so complies, he or she shall issue a certificate in respect of the equipment-

(a) stating that he or she has approved the equipment, and

(b) specifying any restrictions or conditions that he or she has imposed on the use of the equipment.

(4) The Minister may impose a condition or restriction relating to the use of the equipment, and in the case of a certificate issued for radiocommunications equipment shall impose a condition or restriction intended to ensure that the equipment does not unduly affect the operation of any other part of the ship's equipment that makes use of the radio-frequency spectrum.

(5) A certificate issued under paragraph (3) shall be carried with the item of equipment to which it refers while ever that item is on board the ship concerned.

*Equipment dangerous to persons or the environment, etc.*

8. (1) If the Minister is satisfied that particular equipment of a kind specified in Annex A.1 to the Marine Equipment Directive, even though it bears a mark of conformity, and even though correctly installed, maintained and used for its intended purpose, may compromise the health or safety of the crew of the ship on board which it is, or the health or safety of the ship's passengers or other persons, or adversely affect the marine environment, he or she may by order-

(a) direct that the piece of equipment be withdrawn from the market in the State, or

(b) prohibit or restrict its being placed on the market or being used on board an Irish ship.

(2) If the Minister makes an order under this Regulation about equipment, that equipment is not to be taken to comply with Regulation 4.

(3) The Minister shall immediately inform the other Member States and the Commission of the making of an order under paragraph (1), giving the reasons for the making of the order and, in particular, whether-

(a) there has been a failure to comply with paragraphs (1) and (2) of Article 5 of the Marine Equipment Directive,

(b) the testing standards referred to in that Article have been incorrectly applied, or

(c) there are shortcomings in those testing standards.

(4) Notice of the making of an order under this Regulation shall be published as soon as practicable in *Iris Oifigiúil*.

*Transitional-temporary exemption for certain equipment previously type-approved.*

9. Despite Regulation 4, equipment referred to in Annex A.1 to the Marine Equipment Directive (as in force on 21 July 2009), and referred to in that Annex as a new item or as having been transferred from Annex A.2 to that Directive to Annex A.1, being equipment that does not comply with the requirements of that Regulation, may be placed on board an Irish ship until 20 July 2011 if the equipment was manufactured before 21 July 2009 in accordance with procedures for type approval in force before that date within the territory of a Member State.

*Revocations.*

10. The following statutory instruments are revoked:

(a) the European Communities (Marine Equipment) Regulations 2003 ( S.I. No. 38 of 2003 );

(b) the European Communities (Marine Equipment) (Amendment) (No. 2) Regulations 2003 ( S.I. No. 641 of 2003 ).



GIVEN under my Official Seal

2 July 2009

NOEL DEMPSEY

Minister for Transport.

EXPLANATORY NOTE

*(This note is not part of the Instrument and does not purport to be a legal interpretation)*

These Regulations replace the European Communities (Marine Equipment) Regulations 2003 ( S.I. No. 38 of 2003 ). They give effect to Council Directive 96/98/EC of 20 December 1996 on Marine Equipment, as amended by Commission Directive 98/85/EC of 11 November 1998, Commission Directive 2001/53/EC, Commission Directive 2002/75/EC, Article 5 of Commission Directive 2002/84/EC of 5 November 2002 and Commission Directive 2008/67/EC of 30 June 2008 which were introduced by the European Community to enhance safety at sea and prevention of marine pollution through the uniform application of the relevant international instruments relating to certain marine equipment.

1 O.J. No. L 46, 17.2.1997, p. 25.

2 O.J. No. L 315, 25.11.1998, p.14.

3 O.J. No. L 204, 28.7.2001, p.1.

4 O.J. No. L 254, 23.9.2002, p.1.

5 O.J. No. L 324, 29.11.2002, p.53.

6 O.J. No. L 171, 1.7.2008, p.16.

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