



STATUTORY INSTRUMENTS.

S.I. No. 442 of 2021



EUROPEAN UNION (RECOGNITION OF PROFESSIONAL
QUALIFICATIONS IN INLAND NAVIGATION) REGULATIONS 2021

S.I. No. 442 of 2021

EUROPEAN UNION (RECOGNITION OF PROFESSIONAL
QUALIFICATIONS IN INLAND NAVIGATION) REGULATIONS 2021

I, EAMON RYAN, 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 effect to Directive (EU) 2017/2397 of the European Parliament and of the Council of 12 December 2017¹, as amended by Directive (EU) 2021/1233 of the European Parliament and of the Council of 14 July 2021², in so far as it relates to the derogation referred to in Article 39(3) of Directive (EU) 2017/2397, hereby make the following regulations:

Citation and commencement

1. (1) These Regulations may be cited as the European Union (Recognition of Professional Qualifications in Inland Navigation) Regulations 2021.

(2) These Regulations come into operation on 17 January 2022.

Interpretation

2. (1) In these Regulations –

“boatmaster” means a deck crew member who is qualified to sail a craft on the Member States’ inland waterways and is qualified to have overall responsibility on board, including for the crew, for the passengers and for the cargo;

“craft” means a vessel or item of floating equipment;

“deck crew members” means persons who are involved in the general operation of a craft navigating on inland waterways in the European Union and who carry out various tasks, such as tasks related to navigation, controlling the operation of the craft, cargo handling, stowage, passenger transport, marine engineering, maintenance and repair, communication, health and safety, and environmental protection, other than persons who are solely assigned to the operation of the engines, cranes, or electrical and electronic equipment;

“Directive” means Directive (EU) 2017/2397 of the European Parliament and of the Council of 12 December 2017¹, as amended by Directive (EU) 2021/1233 of the European Parliament and of the Council of 14 July 2021²;

¹ OJ No. L 345, 27.12.2017, p. 53

² OJ No. L 274, 30.7.2021, p. 52

“floating equipment” means a floating installation carrying working gear such as cranes, dredging equipment, pile drivers or elevators;

“inland waterway” means a waterway other than the sea, open to navigation by craft;

“liquefied natural gas expert” means a person who is qualified to be involved in the bunkering procedure of a craft using liquefied natural gas as fuel or to be the boatmaster sailing such a craft;

“MSO” means Marine Survey Office of the Department of Transport;

“navigating seasonally” means a navigating activity which is exercised for not more than six months each year;

“navigation time” means the time, measured in days, that deck crew members have spent aboard during a journey on a craft on inland waterways, including loading and unloading activities that require active navigational operations, which has been validated by the MSO;

“passenger navigation expert” means a person serving on board the vessel who is qualified to take measures in emergency situations on board passenger vessels;

“passenger vessel” means a vessel constructed and equipped to carry more than 12 passengers;

“Regulations for Rhine Navigation Personnel” means the requirements for crew members navigating on the Rhine river, which have been established by the international organisation known as the Central Commission for the Navigation of the Rhine;

“service record book” means a personal register that records details of a crew member’s work history, in particular navigation time and journeys carried out;

“Union certificate of qualification” means a certificate, issued by the competent authority of another Member State, attesting that a person fulfils the requirements of the Directive;

“vessel” means an inland waterway vessel or seagoing ship;

(2) A word or expression that is used in these Regulations and is also used in the Directive has, unless the contrary intention appears, the same meaning in these Regulations as it has in the Directive.

Application

3. (1) These Regulations apply to the recognition of Union certificates of qualification, other such certificates and service record books referred to in Regulations 4 and 5.

(2) These Regulations do not apply to persons—

- (a) navigating for sport or pleasure,
- (b) involved in the operation of ferries not moving independently,
- (c) involved in the operation of craft used by armed forces, forces maintaining public order, civil defence services, waterway administrations, fire services and other emergency services, or
- (d) navigating on inland waterways in the State who are exclusively—
 - (i) navigating limited journeys of local interest, where the distance from the departure point is at no time more than 10 kilometres, or
 - (ii) navigating seasonally.

Recognition of certificates of qualification and service record book

4. (1) Any Union certificate of qualification carried by deck crew members, passenger navigation experts and liquefied natural gas experts, as well as any service record books that have been issued by a competent authority in another Member State in accordance with the Directive, shall be valid in respect of the holder on all inland waterways in the State.

(2) Any certificate of qualification or service record book issued in accordance with the Regulations for Rhine Navigation Personnel, which lay down requirements that are identical to those of the Directive, shall be valid in respect of the holder on all inland waterways in the State. Such certificates and service record books that have been issued by a third country shall be valid on all inland waterways in the State, provided that that third country recognises, within its jurisdiction, European Union documents issued pursuant to the Directive.

(3) Without prejudice to paragraph (2), any certificate of qualification or service record book that has been issued in accordance with the national rules of a third country laying down requirements that are identical to those of the Directive, including those set out in Article 38(1) and (3) of the Directive, shall be valid in respect of the holder on all inland waterways in the State, subject to such certificates or service record books being granted recognition in the European Union in accordance with the procedure and the conditions set out in paragraphs (4) and (5) of Article 10 of the Directive.

(4) When the MSO considers that a third country no longer complies with the requirements of Article 10 of the Directive, it shall notify the European Commission immediately, giving substantiated reasons for its contention.

Recognition of valid certificates – transitional measures

5. (1) The qualifications referred to in paragraph (1) of Article 38 of the Directive, that were issued prior to 18 January 2022, shall be valid in respect of the holder on any applicable inland waterways in the State for a maximum of 10 years after that date.

(2) Crew members, other than boatmasters, who hold a certificate of qualification issued by another Member State prior to 18 January 2022, or who hold a qualification recognised in one or more other Member States, may still rely on that certificate of qualification for a maximum of 10 years after that date, on any applicable inland waterways in the State. During that period such crew members, may continue to rely on Directive 2005/36/EC of the European Parliament and of the Council of 7 September 2005³ for the recognition of their qualification by the MSO, on any applicable inland waterways in the State.

(3) Service record books issued prior to 18 January 2022 that were issued in accordance with rules other than those set out by the Directive may remain active for a maximum of 10 years after 18 January 2022, on any applicable inland waterways in the State.

Cooperation with other Member States – suspension of certificates

6. (1) Where the MSO determines that a certificate of qualification issued by a competent authority in another Member State does not satisfy conditions laid down by the Directive, or where there are reasons of safety or public order, the MSO shall request the issuing authority to consider suspending that certificate of qualification pursuant to Article 14 of the Directive.

(2) The MSO may prohibit a person from operating on inland waterways in the State pending notification of the issuing authority's decision regarding the request referred to in paragraph (1) in respect of the person.

(3) Where the MSO prohibits a person under paragraph (2) it shall serve on the person a prohibition notice to that effect in writing by delivering it to the person or sending it by post or, if the MSO has an electronic address for the person, by electronic means.

(4) A person who fails to comply with a prohibition notice served on him or her under paragraph (3) commits an offence and is liable on summary conviction to a class C fine.

(5) Summary proceedings for an offence under paragraph (4) may be brought and prosecuted by the MSO.

³ OJ No. L 255, 30.9.2005, p. 22

Cooperation with other Member States – recording of navigation time

7. If the holder of a service record book requests the recording of navigation time and journeys, which took place on inland waterways in the State, the MSO shall cooperate with competent authorities of other Member States in order to ensure that such navigation time and journeys, for holders of certificates of qualification and service record books recognised under the Directive, are recorded and are validated for a period of up to 15 months before the request for validation.



GIVEN under my Official Seal,
31 August, 2021.

EAMON RYAN,
Minister for Transport.

EXPLANATORY NOTE

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

These Regulations give effect to the derogation set out in Article 39(3) of Directive (EU) 2017/2397, as amended, on the recognition of professional qualifications in inland navigation. The Regulations provide for the recognition by the State of certificates of qualification and service record books, held by crew in the field of inland navigation, which are recognised as being valid on all EU inland waterways, including inland waterways in the State. The Regulations also make provision for cooperating with other Member States regarding suspension of such certificates and the recording of navigation time and journeys for holders of service record books.

BAILE ÁTHA CLIATH
ARNA FHOILSIÚ AG OIFIG AN tSOLÁTHAIR
Le ceannach díreach ó
FOILSEACHÁIN RIALTAIS,
52 FAICHE STIABHNA, BAILE ÁTHA CLIATH 2,
D02 DR67.

Tel: 076 110 6834
r-phost: publications@opw.ie

DUBLIN
PUBLISHED BY THE STATIONERY OFFICE
To be purchased from
GOVERNMENT PUBLICATIONS,
52 ST. STEPHEN'S GREEN, DUBLIN 2,
D02 DR67.

Tel: 076 110 6834
E-mail: publications@opw.ie

€ 3.00

