# COMMISSION IMPLEMENTING DECISION

## of 19 December 2013

## on a notification by the United Kingdom of measures it intends to adopt in accordance with Article 9(2) and (3) of Directive 2009/45/EC of the European Parliament and of the Council on safety rules and standards for passenger ships

*(notified under document C(2013) 9225)*

**(Only the English text is authentic)**

**(Text with EEA relevance)**

(2013/795/EU)

THE EUROPEAN COMMISSION,

Having regard to the Treaty on the Functioning of the European Union,

Having regard to Directive 2009/45/EC of the European Parliament and of the Council of 6 May 2009 on safety rules and standards for passenger ships [1], and in particular Article 9(4) thereof,

Whereas:

(1) Directive 2009/45/EC lays down a uniform level of safety requirements for passenger ships of whatever flag engaged on domestic voyages.

(2) Article 9(2) of the abovementioned Directive permits Member States to adopt measures allowing equivalents for the regulations contained in Annex I to the Directive provided that such equivalents are at least as effective as such regulations and subject to the procedure in Article 9(4).

(3) Article 9(3) of the abovementioned Directive permits Member States to adopt measures to exempt ships from certain specific requirements provided there is no reduction in the level of safety and subject to the procedure in Article 9(4).

(4) Article 9(4) provides that a Member State which avails itself of the provisions of Article 9(2) and (3) should notify the Commission of the measures it intends to adopt, including particulars to the extent necessary to confirm that the level of safety is adequately maintained. If within a period of six months from the notification it is decided in accordance with the procedure in Article 11(2) that the measures are not justified, the said Member State shall be required to amend or not to adopt the proposed measures.

(5) The United Kingdom has originally transmitted to the Commission a notification of a national measure on exemptions and equivalencies to the Directive's requirements for domestic passenger ships under Article 9(2) and (3) of Directive 2009/45/EC on 17 February 2011. The Commission requested additional technical details and explanations on the United Kingdom proposal on 25 March 2011.

(6) The United Kingdom has resubmitted a notification on 19 March 2013 on a national measure granting 21 equivalents and exemptions under Article 9(2) and (3) of Directive 2009/45/EC. This notification replaces the notification transmitted on 17 February 2011; it mainly addresses technical and operational alternatives to the Directive's requirements covering the specific needs of small passenger ships operating on the coast of the United Kingdom.

(7) The Commission requested on 12 June 2013 further information and clarification on the request for exemptions and equivalencies. The Commission indicated that the six-month period provided in Article 9(4) of the Directive, starting from the original reception of the notification, was stopped until the complete reception of the information necessary to finalise the analysis. The United Kingdom replied on 13 July 2013. A meeting was held between the representatives of the Commission, the European Maritime Safety Agency (EMSA) and the United Kingdom authorities on 23 September 2013 to further explore the details of this complex notification.

(8) By 1 October 2013, the United Kingdom has decided to withdraw 11 of the original exemptions/equivalencies. The United Kingdom also updated the remaining exemptions/equivalencies and clarified the operational conditions where the requested exemptions would be applied.

[1] OJ L 163, 25.6.2009, p. 1.

(9) The Commission considers that nine of the exemptions/equivalencies requested are justified and the procedure laid down under Article 11(2) of Directive 2009/45/EC is not applicable.

(10) The remaining request concerns the requirement under Regulation III/2.1 of Annex I to Directive 2009/45/EC on the 'Provision of spare liferafts'. This measure includes an exemption and an equivalent proposal. The United Kingdom requests to exempt from the requirement under Regulation III/2.1 vessels of Classes C and D, under 24 metres in length, engaged only on voyages in favourable weather, in daylight and in summer, and carrying not more than 130 persons. The United Kingdom proposes as equivalency to such a regulation that these passenger ships should carry liferaft for 100 % of persons on board, and buoyant apparatus for 20 %.

(11) The Commission considers that this remaining request to exempt vessels of Classes C and D, under 24 metres in length, from the requirement under Regulation III/2.1 of Annex I to Directive 2009/45/EC on the 'Provision of spare liferafts', cannot be accepted. The United Kingdom has not demonstrated that there is no reduction in safety under the proposed operating conditions of vessels engaged only on voyages in favourable weather, in daylight and in summer. Furthermore, the United Kingdom has not demonstrated that the risk of a liferaft being unavailable is low, and the proposed equivalent measure of on-board buoyant apparatus for 20 % of the persons on board is unacceptable as it implies that the persons using it will be in the water. In some of the areas covered by the measure, the sea temperature in the defined summer period can be very low, reaching in some cases 5 °C.

(12) The Commission therefore considers that the intended measures on Regulation III/2.1 of Annex I to Directive 2009/45/EC are not justified.

(13) The measure provided in this Decision is in accordance with the opinion of the Committee on Safe Seas and the Prevention of Pollution from Ships,

HAS ADOPTED THIS DECISION:

*Article 1*

The United Kingdom is required not to adopt its intended exemption to the requirement 'Provision of spare liferafts' of Regulation III/2.1 of Annex I to Directive 2009/45/EC for the passenger ships of Classes C and D, under 24 metres and the equivalency proposed for those vessels to carry liferaft for 100 %, and buoyant apparatus for 20 % of persons on board.

*Article 2*

This Decision is addressed to the United Kingdom of Great Britain and Northern Ireland.

Done at Brussels, 19 December 2013.

*For the Commission*

Siim KALLAS

*Vice-President*