

2 September 2015

Transposition of Amended Marine Equipment Directive

1. Transposition of Directive 2014/93/EU

Directive 2014/93/EU amending Council Directive 96/98/EC on marine equipment ("**Marine Equipment Directive**") was adopted on 18 July 2014 with a view to incorporate in the Marine Equipment Directive the amendments to the international conventions and applicable testing standards with respect to marine equipment that have entered into force since the date of such directive.

The Government Decision No. 424/2015 regarding the amendment of the Government Decision No. 494/2006 on marine equipment ("**GD 424**") transposes the provisions of the Directive 2014/93/EU amending the Marine Equipment Directive into Romanian legislation. GD 424 entered into force on 14 August 2015.

As of the date of entry into force of GD 424, marine equipment made after such date has to comply with the provisions of GD 424. Transitory provisions are set forth with respect to equipment which was manufactured before 14 August 2015 in conformity with procedures for type-approval already in force before that date within the territory of a Member State – such equipment may continue to be placed on the market and on board a Romanian ship until 14 August 2017.

The text of the Directive 2014/93/EU can be accessed via the following link:

<http://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:32014L0093&from=EN>

2. New Marine Equipment Directive to be implemented in the next year

On 23 July 2014 a new directive on marine equipment was adopted, *ie* Directive 2014/90/EU repealing Directive 96/98/EC ("**New Marine Equipment Directive**"). The New Marine Equipment Directive has not been implemented in Romania yet, the deadline for its transposition being 18 September 2016.

Both the Marine Equipment Directive and the New Marine Equipment Directive aim at enhancing safety at sea and prevention of marine pollution and guaranteeing the harmonisation of safety rules on board of EU flagged ships through the uniform application of the international instruments relating to equipment. Certified equipment is then allowed to circulate freely within the EU.

However, experience in the implementation of the Marine Equipment Directive has revealed that additional measures are required to enhance the enforcement mechanism of the directive. As such, the New Marine Equipment Directive introduces a simpler system for the transposition of EU legislation, strengthens the requirements for the notification and control of conformity assessment bodies and enhances market surveillance.

Marine equipment placed on board an EU ship on or after 18 September 2016 must meet the design, construction and performance requirements of the international instruments as applicable at the time when that equipment is placed on board. Marine equipment which has demonstrated compliance with the New Marine Equipment Directive must have the wheel mark affixed to it. In order to make market surveillance possible and prevent the counterfeiting of specific items of marine equipment, manufacturers can use an appropriate and reliable form of electronic tag instead of, or in addition to, the wheel mark.

The New Marine Equipment Directive sets forth a number of obligations for the manufacturers of equipment, as well as for the importers and distributors, such as to carry out conformity assessment procedures, prepare and maintain required technical documentation regarding the equipment, provide information and documentation necessary to demonstrate conformity of the product to the competent authorities.

Use of marine equipment not bearing the wheel mark will be allowed only in limited and exceptional circumstances.



In case of non-compliance with the rules under the New Marine Equipment Directive, Member States have to require the relevant operator to remedy the failure, and, if failure persists, to restrict or prohibit the non-compliant marine equipment from being made available on the market or to withdraw it from the market.

The Commission will set up and maintain a database (available to all Member States, but also to the public) containing information such as: (i) list and key details of the conformity certificates and of the declarations of conformity issued, (ii) up-to-date list of the applicable international instruments and of the requirements and testing standards applicable, (iii) requirements for electronic tagging.

The Marine Equipment Directive (Directive 96/98/EC) is repealed with effect from 18 September 2016, date when the New Marine Equipment Directive should already be implemented into national legislation of Member States.

The text of the New Marine Equipment Directive can be accessed via the following link:

<http://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:32014L0090&from=EN>

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