

§ 789. - Officers' Competency Certificates Convention, 24 ottobre 1936 n. 53 (1).

(1) Entrata in vigore il 29 Marzo 1939. Ratificata dall'Italia il 22 ottobre 1952

Art. 1. 1. This Convention applies to all vessels registered in a territory for which this Convention is in force and engaged in maritime navigation with the exception of—

- (a) ships of war;
- (b) Government vessels, or vessels in the service of a public authority, which are not engaged in trade;
- (c) wooden ships of primitive build such as dhows and junks.

2. National laws or regulations may grant exceptions or exemptions in respect of vessels of less than 200 tons gross registered tonnage.

Art. 2. For the purpose of this Convention the following expressions have the meanings hereby assigned to them:

- (a) *master or skipper* means any person having command or charge of a vessel;
- (b) *navigating officer in charge of a watch* means any person, other than a pilot, who is for the time being actually in charge of the navigation or manoeuvring of a vessel;
- (c) *chief engineer* means any person permanently responsible for the mechanical propulsion of a vessel;
- (d) *engineer officer in charge of a watch* means any person who is for the time being actually in charge of the running of a vessel's engines.

Art. 3. 1. No person shall be engaged to perform or shall perform on board any vessel to which this Convention applies the duties of master or skipper, navigating officer in charge of a watch, chief engineer, or engineer officer in charge of a watch, unless he holds a certificate of competency to perform such duties, issued or approved by the public authority of the territory where the vessel is registered.

2. Exceptions to the provisions of this Article may be made only in cases of force majeure.

Art. 4. 1. No person shall be granted a certificate of competency unless—

- (a) he has reached the minimum age prescribed for the issue of the certificate in question;
- (b) his professional experience has been of the minimum duration prescribed for the issue of the certificate in question; and
- (c) he has passed the examinations organised and supervised by the competent authority for the purpose of testing whether he possesses the qualifications necessary for performing the duties corresponding to the certificate for which he is a candidate.

2. National laws or regulations shall—

- (a) prescribe a minimum age to have been attained by and a minimum period of professional experience to have been completed by candidates for each grade of competency certificate;
- (b) provide for the organisation and supervision by the competent authority of one or more examinations for the purpose of testing whether candidates for competency certificates possess the qualifications necessary for performing the duties corresponding

to the certificates for which they are candidates.

3. Any Member of the Organisation may, during a period of three years from the date of its ratification, issue competency certificates to persons who have not passed the examinations organised in virtue of paragraph 2 (b) of this Article who—

- (a) have in fact had sufficient practical experience of the duties corresponding to the certificate in question; and
- (b) have no record of any serious technical error against them.

Art. 5. 1. Each Member which ratifies this Convention shall ensure its due enforcement by an efficient system of inspection.

2. National laws or regulations shall provide for the cases in which the authorities of a Member may detain vessels registered in its territory on account of a breach of the provisions of this Convention.

3. Where the authorities of a Member which has ratified this Convention find a breach of its provisions on a vessel registered in the territory of another Member which has also ratified the Convention, the said authorities shall communicate with the consul of the Member in the territory of which the vessel is registered.

Art. 6. 1. National laws or regulations shall prescribe penalties or disciplinary measures for cases in which the provisions of this Convention are not respected. 2. In particular, such penalties or disciplinary measures shall be prescribed for cases in which—

- (a) a shipowner, shipowner's agent, master or skipper has engaged a person not certificated as required by this Convention;
- (b) a master or skipper has allowed any of the duties defined in Article 2 of this Convention to be performed by a person not holding the corresponding or a superior certificate;
- (c) a person has obtained by fraud or forged documents an engagement to perform any of the duties defined in the said Article 2 without holding the requisite certificate.

Art. 7. 1. In respect of the territories referred to in article 35 of the Constitution of the International Labour Organisation, each Member of the Organisation which ratifies this Convention shall append to its ratification a declaration stating—

- a) the territories in respect of which it undertakes to apply the provisions of the Convention without modification;
- b) the territories in respect of which it undertakes to apply the provisions of the Convention subject to modifications, together with details of the said modifications;
- c) the territories in respect of which the Convention is inapplicable and in such cases the grounds on which it is inapplicable;
- d) the territories in respect of which it reserves its decision.

2. The undertakings referred to in subparagraphs (a) and (b) of paragraph 1 of this Article shall be deemed to be an integral part of the ratification and shall have the force of ratification.

3. Any Member may by a subsequent declara-

tion cancel in whole or in part any reservations made in its original declaration in virtue of subparagraphs (b), (c) or (d) of paragraph 1 of this Article.

Art. 8. The formal ratifications of this Convention shall be communicated to the Director-General of the International Labour Office for registration.

Art. 9. 1. This Convention shall be binding only upon those Members of the International Labour Organisation whose ratifications have been registered with the Director-General.

2. It shall come into force twelve months after the date on which the ratifications of two Members have been registered with the Director-General.

3. Thereafter, this Convention shall come into force for any Member twelve months after the date on which its ratifications has been registered.

Art. 10. As soon as the ratifications of two Members of the International Labour Organisation have been registered, the Director-General of the International Labour Office shall so notify all the Members of the International Labour Organisation. He shall likewise notify them of the registration of ratifications which may be communicated subsequently by other Members of the Organisation.

Art. 11. 1. A Member which has ratified this Convention may denounce it after the expiration of ten years from the date on which the Convention first comes into force, by an Act communicated to the Director-General of the International Labour Office for registration. Such denunciation should not take effect until one year after the date on which it is registered.

2. Each Member which has ratified this Convention and which does not, within the year following the expiration of the period of ten years mentioned in the preceding paragraph, exercise the right of denunciation provided for in this Article, will be bound for another period of ten years and, thereafter, may denounce this Convention at the expiration of each period of ten years under the terms provided for in this Article.

Art. 12. At the expiration of each period of ten years after the coming into force of this Convention, the Governing Body of the International Labour Office shall present to the General Conference a report on the working of this Convention and shall examine the desirability of placing on the agenda of the Conference the question of its revision in whole or in part.

Art. 13. 1. Should the Conference adopt a new Convention revising this Convention in whole or in part, then, unless the new Convention otherwise provides: *a)* the ratification by a Member of the new revising Convention shall ipso jure involve the immediate denunciation of this Convention, notwithstanding the provisions of Article 11 above, if and when the new revising Convention shall have come into force; *b)* as from the date when the new revising Convention comes into force this Convention shall cease to be open to ratification by the Members.

2. This Convention shall in any case remain in force in its actual form and content for those Members which have ratified it but have not ratified the revising Convention.

Art. 14. The English and French texts of this Convention shall both be authentic.