

2017 No.

MERCHANT SHIPPING

**The Merchant Shipping (Work in Fishing Convention)
Regulations 2017**

<i>Made</i> - - - -	***2017
<i>Laid before Parliament</i>	***2017
<i>Coming into force</i> - -	***2017

The Secretary of State is a Minister designated (a) for the purposes of section 2(2) of the European Communities Act 1972(b) in relation to measures relating to the safety of ships and the health and safety of persons on them.

The Secretary of State makes the following Regulations in exercise of the powers conferred by section 2(2) of the European Communities Act 1972 and sections 85(1)(a) and (b), (3), (5), (7) and 86(1) of the Merchant Shipping Act 1995 (c).

In accordance with section 86(4) of the Merchant Shipping Act 1995 the Secretary of State has consulted the persons referred to in that section.

PART 1

General Matters

Citation and Commencement

1.—(1) These Regulations may be cited as the Merchant Shipping (Work in Fishing Convention) Regulations 2017.

(2) These Regulations come into force on [] 2017.

Interpretation

2. In these Regulations—

(a) S.I. 1993/595.
(b) 1972 c.68.[amendments]
(c) 1995 c.21.

“the Act” means the Merchant Shipping Act 1995;

“commercial fishing” means all fishing operations, including fishing operations on rivers, lakes or canals, with the exception of subsistence fishing and recreational fishing;

[“competent authority” means the Secretary of State/MCA]

“Convention” or “Work in Fishing Convention” means the convention adopted at Geneva on 14 June 2007 by the International Labour Organisation;

“fishing vessel owner” means the owner of the fishing vessel or any other organisation or person such as the manager, agent or bareboat charterer, who has assumed the responsibility for the operation of the vessel from the owner and who, on assuming such responsibility, has agreed to take over the duties and responsibilities imposed on fishing vessel owners in accordance with the Convention, regardless of whether any other organisation or person fulfils certain of the duties or responsibilities on behalf of the fishing vessel owner;

“fisherman” means/includes every person (except pilots) employed, engaged or working in any capacity on board any fishing vessel;

“fisherman’s work agreement” means a written agreement between a fisherman and another person in respect of the fisherman’s work on board a fishing vessel;

“fishing vessel” means a vessel for the time being used for or in connection with fishing for sea fish other than a vessel used for fishing otherwise than for profit; and for the purposes of this definition “sea fish” includes shellfish, salmon and migratory trout (as defined by section 44 of the Fisheries Act 1981(a) that is 24 metres or more in length,

“gross tonnage” means/ has the meaning /is calculated in accordance with regulation 6 of the Merchant Shipping (Tonnage Regulations 1997(b);

“length” means; registered length as defined by the Fishing Vessels (Safety of 15-24 Metre Vessels) Regulations 2002;(c)

[“Maritime and Coastguard Agency/MCA”]

“Merchant Shipping Notice” means a notice described as such and issued by the Secretary of State/MCA, and any reference to a particular Merchant Shipping Notice includes a reference to a Merchant Shipping Notice amending or replacing that Notice which is considered by the Secretary of State to be relevant from time to time;

“skipper” means the person in command of the fishing vessel;

“United Kingdom fishing vessel” means a vessel

- (a) which is ship within the meaning of Section 85(2) of the Act; or
- (b) a hovercraft registered under the Hovercraft Act 1968;

“United Kingdom waters” has the meaning given in section 313(2) of the Act.

Application

3.—(1) Subject to paragraph (2), these Regulations apply to —

- (a) a United Kingdom fishing vessel wherever it may be; and
- (b) a fishing vessel which is not a United Kingdom ship where that ship is in United Kingdom waters,

(a) 1981
(b) S.I. 1997/1510.
(c) S.I.2002/2201.

engaged in commercial fishing operations.

(2) Paragraph (1) does not apply to fishing vessels operating exclusively on inland waterways or categorised waters.

(3) In this regulation “categorised waters” means the waters specified as category A, B, C or D waters in Merchant Shipping Notice 1776 (M);

Obligation to comply with orders]

4.—(1) A fisherman must comply with lawful orders of the skipper regarding health and safety.

(2) A fisherman who fails to comply with paragraph (1) commits an offence.

Competent authority

5. The Secretary of State, [acting through the Maritime and Coastguard Agency], is the competent authority for the purposes of the Convention.

PART 2

Minimum age

Fishermen to be of minimum age

6.—(1) Subject to paragraphs (2) and (3), a fisherman under 16 years of age must not be employed or engaged for work on board a fishing vessel.

(2) Paragraph (1) does not apply where

- (a) the person is over 15 years of age;
- (b) the employment or engagement is limited to light work during school holidays;
- (c) the purpose of the employment or engagement is to facilitate work experience and shadowing;
- (d) and the person must be able to demonstrate that they have completed a course training regarding basic survival at sea. Such a course must satisfy the requirements specified in a Merchant Shipping Notice.

(3) Where the nature of the activities and the circumstances in which they are carried out are likely to jeopardize that persons health and safety or morals the minimum age of a person employed or engaged for work on fishing vessel is 18 years of age.

(4) A breach of paragraph (1) is an offence by [the fishing vessel owner], [the skipper] and the employer of the person under the age of 16.

Young persons on night duty

7.—(1) Subject to paragraph (2) a person under the age of 18 years must not be employed or engaged to work on a fishing vessel at night.

(2) Paragraph (1) does not apply where —

- (a) the effective training of the person, in accordance with established programmes and schedules, would be impaired; or
- (b) the specific nature of the duty or a recognized training programme requires fishermen to perform duties at night and the authority determines, after consultation, that the work will not have a detrimental impact on their health or well-being.

(3) In this regulation “night” means a period

- (a) the duration of which is at least 9 consecutive hours; and

(b) which starts no later than midnight and ends no earlier than 5 a.m. (local time)[Do we want to apply the exceptions in paragraphs (a) and (b) of article 6?]

(4) A breach of paragraph (1) is an offence by [the fishing vessel owner], [the skipper] and the employer of the person under the age of 18.

PART 3

Fisher' work agreements

Duty to enter into fisherman's work agreement

8.—(1) Subject to paragraph (2) a fisherman must have a fisherman's work agreement which complies with regulation 9.

(2) The fisherman's work agreement must be comprehensible to the fisherman and consistent with the provisions of the Convention.

(3) Paragraph (1) does not apply to a fishing vessel owner who is single-handedly operating the vessel.

(4) A breach of paragraph (1) is an offence by the fishing vessel owner. Content of fisherman's work agreement

9.—(1) Subject to paragraph (2), a fisherman's work agreement must include provision about the matters in Schedule 1

(2) Such provision may be achieved by way of reference to another document which includes provision about those matters.

(3) A breach of paragraph (1) is an offence by the fishing vessel owner.

(4) Prior to entering into a fisherman's work agreement, the fishing vessel owner must take reasonable steps to satisfy itself with regard to the following requirements

(a) the fisherman must have had sufficient opportunity to review and take advice on the terms of and conditions of the agreement;

(b) the fisherman must have received an explanation of the rights and responsibilities of the fisher under the agreement; and

(c) the fisherman must be entering into the agreement freely.

(5) Where a fishing vessel owner fails to take such reasonable steps the fishing vessel owner commits an offence.

(6) A fisherman's work agreement must contain a declaration by the fishing vessel owner and the fisher confirming that he requirement in paragraph 4 (a) to (c) have been met.

(7) A breach of paragraph (6) is an offence by the fishing vessel owner.

Documents

10.—(1) As soon as is practicable after entering into a fisherman's work agreement, the fishing vessel owner must provide to the fisherman an original of the agreement signed by each party and a copy of any document referred to in that agreement.

(2) A breach of paragraph (1) is an offence by the fishing vessel owner.

(3) The fishing vessel owner must—

(a) ensure that a copy of the fisherman's work employment agreement (and a copy of any document referred to in that agreement) for each seafarer on a ship is held on board; and

- (b) allow each fisherman to see the copy of the fisherman's work agreement to which the fisherman is a party (and a copy of any document referred to in that agreement) on request.
- (c) a breach of paragraph (3) is an offence by the fishing vessel owner.

Foreign language fisherman's work agreement

11.—(1) This regulation applies where the fisherman has a fisherman's work agreement which is not in the English language.

(2) The fishing vessel owner must ensure that an English translation of the provisions of the fisherman's work agreement (including any provisions that are contained in another document).

Payments under a fisher's work agreement

12.—(1) Where a fisherman's work agreement provides that

- (a) the fisherman is entitled to receive wages, the wages must be paid monthly or as provided by the fisherman's work agreement;
- (b) the fisherman is entitled to receive any other payment, such payment made within a reasonable time or as provided by the fisherman's work agreement.

(2) Paragraph (1) does not apply to the extent that the failure to make such payment on the required date was due to—

- (a) a mistake;
- (b) a reasonable dispute as to liability;
- (c) the act or default of the fisherman; or
- (d) any other cause not being the wrongful act or default of the persons liable to make the payment or of their servants or agents.

Account of payments

13.—(1) The fishing vessel owner must ensure that an account of the fisherman's wages or other remuneration under a fisherman's work agreement is prepared and delivered to the fisherman

- (a) periodically during the term of the fisherman's work agreement, at intervals not exceeding one month; and
- (b) within one month of the agreement terminating.

(2) Where the fisherman is not an employee, such account must include the following information—

- (a) payments due
- (b) payments made (including any not falling within sub-paragraph (a)); and
- (c) any rates of exchange and any commissions paid which are relevant to those payments.

(3) A breach of paragraph (1) is an offence by the fishing vessel owner.

PART 4

Repatriation

Duty to repatriate fishermen

14.—(1) Subject to regulation 19 a fishing vessel owner must make such provision as is necessary for the repatriation of a fisherman as soon as is reasonably practical in the following cases.

- (a) where the fisherman's work agreement expires;
- (b) where the fisherman's work agreement has been terminated by the fishing vessel owner;
- (c) where the fisherman's work agreement had been terminated by the fisherman in accordance with its terms;
- (d) where the fisherman is no longer able to carry out the fisherman's duties under the fisherman's work agreement or cannot be expected to carry them out in the specific circumstances
 - (i) the seafarer has an illness, injury or medical condition which requires their repatriation when found medically fit to travel,
 - (ii) shipwreck;
 - (iii) the fishing vessel owner is not able to fulfil its legal or contractual obligations to the fisherman following insolvency, the sale of the fishing vessel or a change in the fishing vessel's registration; or
 - (iv) the fishing vessel is bound for a war zone to which the seafarer does not consent to go
- (e) where the fisherman has completed the maximum period of service on board following which the fisherman is entitled to repatriation in accordance with the fisherman's employment agreement; and
- (f) where the fisherman's employment agreement is terminated pursuant to an order of a court or tribunal.

(2) A breach of paragraph (1) is an offence by [the fishing vessel owner].

Place for return

15.—(1) Where there is a duty on a fishing vessel owner to provide for the repatriation of a fisherman under regulation 14, a seafarer is entitled to repatriation to the destination provided for in the fisherman's employment agreement, or such other place as may subsequently be agreed with the fishing vessel owner.

(2) If the fisherman's work agreement does not identify a destination, and there has been no agreement between the fisherman and the fishing vessel owner as to the destination, the fisherman is entitled to repatriation to the fisherman's choice of the following destinations.

- (a) the place at which the fisherman entered into the fisherman's employment agreement; or
- (b) the fisherman's country of residence.

Scope of duty to repatriate

16. Where there is a duty on a fishing vessel owner to provide for the repatriation of a fisherman under regulation 14, that duty ends when—

- (a) the fisherman is repatriated in accordance with regulation 14;
- (b) the fishing vessel owner makes reasonable arrangements for repatriation which are unsuccessful because of the fisherman's unreasonable conduct;

- (c) the fishing vessel owner has used reasonable endeavours to contact the fisherman for a period of three months or more, but has been unable to make such contact;
- (d) the fisherman confirms in writing to the fishing vessel owner that repatriation is not required; or
- (e) the fisherman is dead.

Duty pending repatriation

17.—(1) [A fishing vessel owner to which the duty in regulation 14 applies must make such provision as is necessary for the fisherman’s relief and maintenance pending repatriation.

(2) The fishing vessel owner must have regard to the fisherman’s personal circumstances and requirements when determining what provision is required under paragraph (1).

(3) Without prejudice to the generality of paragraph (1) the provision for relief and maintenance must include

- (a) Food;
- (b) Clothing
- (c) Accommodation;
- (d) Toiletries and other personal necessities;
- (e) Surgical, medical, dental or optical treatment(including the repair or replacement of any appliance) for and condition requiring immediate care; and
- (f) In cases where legal aid is unavailable or insufficient, reasonable costs for the defence of the fisherman in any criminal proceeding in respect of any act or omission within the scope of the fisherman’s work agreement, being proceedings where neither the fishing vessel owner nor the an agent of the fishing vessel owner is the complainant.
- (g) sufficient money to meet any minor ancillary expenses necessarily incurred or likely to be so incurred by the fisherman for his relief and maintenance.

(4) The provisions to be made by a fishing vessel owner in accordance with the foregoing paragraphs shall include—

- (a) the repayment of expenses incurred in bringing a fisherman ashore and maintaining him until he is brought ashore; and
- (b) the payment of the expenses of the burial or cremation of a fisherman who dies before he can be repatriated.

(5) The duty in paragraph (1) ends when the duty in regulation 14 ends.

(6) A breach of paragraph (1) is an offence by the fishing vessel owner.

Prohibition on recovering costs from the fisherman

18.—(1) Subject to paragraph (2) a fishing vessel owner must not enter into an agreement with a fisherman under which the fisherman must make a payment in respect of either

- (a) repatriation costs; or
- (b) relief and maintenance costs.

(2) A fisherman’s work agreement may provide that the fisherman must reimburse repatriation costs where the agreement is terminated because of the fisherman’s misconduct.

(3) If a fisherman’s work agreement contains provision described in paragraph (2) and that obligation arises, a deduction equivalent to those costs may be mad from the wages due to the fisherman under that agreement.

(4) If a fisherman's work agreement does not contain provision such as that described in paragraph (2), the fishing vessel owner may on the recover the costs in paragraph (1) (or damages in respect of such costs) where the agreement is terminated because of the fisherman's serious misconduct.

(5) A breach of paragraph (1) is an offence by the fishing vessel owner.

(6) A agreement is void to the extent that it provides that a fisherman must make a payment to the fishing vessel owner in respect of either repatriation costs or relief or maintenance costs in breach of paragraph (1).

Secretary of State functions in the event of fishing vessel owner default

19.—(1) If the fishing vessel owner [of a United Kingdom fishing vessel] fails to make the provision required under regulation 14, the Secretary of State must make the required provision (or secure that it is made) and may recover the costs incurred from the fishing vessel owner as a civil debt.

(2) If a fishing vessel owner of a ship which is not [a United Kingdom fishing vessel] fails to provision required under regulation 14 the Secretary of State may make the required provision (or secure that it is made) and may recover costs incurred from the fishing vessel owner as a civil debt.

(3) Subject to paragraph (5), the costs which the Secretary of State may recover under paragraph(1) and (2) include—

- (a) costs incurred by the Secretary of State in making the required provision (or securing that it is made); and
- (b) costs incurred by the Secretary of State in reimbursing another person (including a State which has made provision pursuant to paragraph 5 of Standard A2.5 (repatriation) of the MLC) for having made the required provision (or having secured its provision), whether or not the Secretary of State has requested or required them to do so.

(4) Subject to paragraph (5), if a fishing vessel owner of a United Kingdom ship fails to make provision required under regulation 16 or 17 and the fisherman incurs costs in making the required provision or securing that it is made, the fisherman may recover such costs from the fishing vessel owner as a civil debt.

(5) The costs incurred by the fisherman which are referred to in paragraph (4)—

- (a) may not be recovered by the fisherman under paragraph (4) if they have been recovered by the Secretary of State under paragraph (1); and
- (b) may not be recovered by the Secretary of State under paragraph (1) if they have been recovered by the fisherman under paragraph (4).

Fishing vessel owners to have insurance

20.—(1) A United Kingdom fishing vessel ship may not enter or leave a port in the United Kingdom or elsewhere unless the fishing vessel owner has insurance in respect of that fishing vessel.

(2) [A fishing vessel which is not a United Kingdom fishing vessel may not enter or leave a port in the United Kingdom unless the fishing vessel has insurance in respect of that vessel.]

(3) The insurance must cover at fishing vessel owner's liability under this Part.

PART 5

Crew accommodation and food

Crew accommodation

21.—(1) In this Part, “crew accommodation” means accommodation, including the construction, machinery, fittings and equipment of that accommodation, intended for or used by fishermen.

(2) Subject to regulation (3) crew accommodation must be of sufficient size and quality and appropriately equipped for the service of the vessel and the length of time fishermen live on board.

(3) A fishing vessel must comply with the requirements relating to crew accommodation set out in Merchant Shipping Notice XXXXA breach of paragraph (3) is an offence by the fishing vessel owner.

(4) The skipper,[or a crew member appointed by the skipper for that purpose], must, at intervals not exceeding 7 days, and accompanied by at least one member of the crew, inspect the crew accommodation to ensure that it is clean, decently habitable and safe and maintained in a good state of repair.

(5) A breach of paragraph (4) is an offence by the skipper of the fishing vessel.

(6) The skipper of the fishing vessel,[or a crew member appointed by the skipper for that purpose, must record findings of the inspection undertaken pursuant to paragraph (4) in the official log book of the vessel specifying

- (a) The time and date of the inspection
- (b) The name and rank of each person making the inspection
- (c) The particulars of any respect in which that crew accommodation was found by any of the persons making the inspection not to comply with these Regulations.

(7) A breach of paragraph (6) is an offence by the skipper of the fishing vessel.

Exemptions

22.—(1) The Secretary of State may exempt a fishing vessel from some or all of the requirements of regulation 24, provided that it not result in overall conditions less favourable than those which would result from the application of the requirements of Annex 3 to the Convention.

(2) Before granting an exemption the Secretary of State must take into account the interests of fishermen having differing and distinctive religious and social practices.

(3) An exemption granted under this regulation must

- (a) be in writing;
- (b) specify the date on which it takes effect; and
- (c) specify the terms (if any) on which it is given.

(4) A breach of the terms of an exemption granted under paragraph (1) is an offence by the shipowner.

Provision of food and drinking water

23. The fishing vessel owner and the skipper must ensure that the food and drinking water are provide on board that vessel which

- (a) Are suitable in respect of quality and quantity and nutritional value taking account of

- (i) The number of fishermen on board and the character nature and duration of the voyage;
 - (ii) The different religious requirement and cultural practices in relation to food of the fishermen on board;
- (b) Do not contain anything which is likely to cause sickness injury to health or which render any food or drinking water unpalatable; and
- (c) are otherwise fit for consumption.
- (2) The fishing vessel owner and the skipper must ensure that food and drinking water are provided in accordance with paragraph (1) are provided free charge to all fishermen while they are on board.
- (3) A breach of paragraphs (1) or (2) is an offence by the owner of the fishing vessel and the skipper.

Organisation of catering facilities

- 24.**—(1) The fishing vessel owner and the skipper must ensure that
- (a) the galley and food storage facilities are maintained in a hygienic condition; and
 - (b) waste is kept in closed well sealed containers and removed from food handling areas whenever necessary.
- (2) A breach of paragraph (1) is an offence by the owner of the fishing vessel and the skipper.

Inspection of food and catering facilities

- 25.**—(1) The skipper,[or a crew member appointed by the skipper for that purpose], must, at intervals not exceeding 7 days, and accompanied by at least one member of the crew, inspect
- (a) the supplies of food and drinking water on board are inspected to check compliance with regulation 23; and
 - (b) the catering facilities are inspected to check compliance with regulation 20.
- (2) A breach of paragraph (1) is an offence by the owner of the skipper.
- (3) The skipper of the fishing vessel must record findings of the inspection undertaken pursuant to paragraph (1) in the official log book of the vessel specifying—
- (a) The time and date of the inspection
 - (b) The name and rank of each person making the inspection
 - (c) The particulars of any respect the food and catering facilities were found by any of the persons making the inspection not to comply with these Regulations.
- (4) A breach of paragraph (3) is an offence by the owner of the skipper.

PART 6

Medical care

Fishing vessel owner duty to make provision for seafarer medical treatment

- 26.**—(1) This regulation applies in relation to a fisherman who suffers sickness or injury during the term of a fisherman's work agreement.
- (2) The fisherman shall be entitled to
- (a) medical treatment ashore;
 - (b) be taken ashore in a timely manner;
- the cost of such medical treatment shall be borne by the fishing vessel owner.

PART 7

Inspection and detention of fishing vessels

Inspection of fishing vessels

27.—(1) For the purpose of checking compliance with these Regulations, a relevant inspector (or in the case of a United Kingdom ship a proper officer) may at all reasonable times go on board a fishing vessel and inspect the vessel, its equipment and any articles on it and any documentation carried on it.

(2) Section 258(1A), (3) and (5) of the Act^(a) (powers to inspect ships and their equipment etc.) apply in relation to paragraph (1) as if references in those subsections to “subsection 1 above” and “this section” were reference to paragraph (1).

(3) Sections 259(1), (2), (5), (7) and (9) to 12 and 260(1) and (2) of the Act (powers of inspectors in relation to premises and ships and supplementary provisions) apply in relation to the inspection of a ship to which this regulation applies for the purpose of checking compliance with these Regulations as if

- (a) references in those sections to “this Act” were to these Regulations;
- (b) for section 259(1)(b) there were substituted a reference to any ship to which [this regulation] applies;
- (c) in section 259(2)(h)(iii) the words “or any instrument made under it” were omitted; and
- (d) in section 259(5) the reference to “subsections (2) and (4) above for the purposes of Chapter II of Part VI” were to “subsection (2) above” and the reference to “those subsections” were to that subsection.

(4) Any regulations made under section 259(8) or section 260(3) of the Act apply for the purposes of the provision of those sections as applied by paragraphs (2) and (3) as they apply for the purposes of the Act.

(5) Sections 261 to 266 of the Act ^(b) (improvement notices and prohibition notices) apply for the purposes of these Regulations as if the meaning of “the relevant statutory provisions” in section 261(4) included these Regulations.

PART 8

[Offences and penalties]

Penalties

28.—(1) Subject to paragraphs (2), and (3), offences under these Regulations are punishable on summary conviction—

- (a) In England and Wales by a fine; or
- (b) In Scotland or Northern Ireland by a fine not exceeding level 5 on the standard scale.

(2) offences under regulations 9(7), 10(3)(c) and 24(4) of these Regulations are punishable on summary conviction by a fine not exceeding level 4 on the standard scale

(a) Subsection 1A was inserted by the Merchant Shipping and Maritime Security Act 1997 (c.28), Schedule 1 paragraph 4.

(b) Section 261 was amended

(3) offences under regulation 21(5) and 25(4) of these Regulations are punishable on summary conviction by a fine not exceeding level 3 on the standard scale.

(4) offences under regulation 13(3) and 21(7) of these Regulations are punishable on summary conviction by a fine not exceeding level 2 on the standard scale.

(5) offences under regulation 21(5) and 22(1) of these Regulations are punishable on summary conviction –

- (a) in England and Wales by a fine; or
- (b) in Scotland and Northern Ireland by a fine not exceeding level 5 on the standard scale or on conviction in indictment to imprisonment for a term not exceeding two years, or to both

Defence

29.In any proceedings for an offence under these Regulations it is a defence for the person charged to show that all reasonable steps had been taken by that person to ensure compliance with the

PART 9

Revocation

Revocation

30.The instrument[s] set out in Schedule 2 to these Regulations are revoked

PART 10

Review

Review

31.—(1) The Secretary of State must from time to time—

(a) carry out a review of the regulatory provision contained in 3 to 29 of these regulations to, and

(b) publish a report setting out the conclusions of the review.

(2) The first report must be published before [enter date].

(3) Subsequent reports must be published at intervals not exceeding [5] years.

(4) Section 30(3) of the Small Business, Enterprise and Employment Act 2015 requires that a review carried out under this regulation must, so far as is reasonable, have regard to how the obligations under the Work in Fishing Convention are implemented in other countries which are subject to the obligations.

(5) Section 30(4) of the Small Business, Enterprise and Employment Act 2015 requires that a report published under this regulation must, in particular-

(a) set out the objectives intended to be achieved by the regulatory provision referred to in paragraph (1)(a),

- (b) assess the extent to which those objectives are achieved,
 - (c) assess whether those objectives remain appropriate, and
 - (d) if those objectives remain appropriate, assess the extent to which they could be achieved in another way which involves less onerous regulatory provision.
- (6) In this regulation, “regulatory provision” has the same meaning as in sections 28 to 32 of the Small Business, Enterprise and Employment Act 2015 (see section 32 of that Act)

Address	<i>Name</i>
Date	Parliamentary Under Secretary of State Department for Transport

SCHEDULE 1

Fisherman’s Work Agreement

1. The fisherman’s family name and other names, date of birth or age and birthplace.
2. The place at which and date on which the agreement was concluded.
- 3 The name of the fishing vessel or vessels and the registration number of the vessel or vessels on board which the fisherman undertakes to work;
4. The name of the employer, or fishing vessel owner, or other party to the agreement with the fisherman;
5. The voyage or voyages to be undertaken, if this can be determined at the time of making the agreement;
6. The capacity in which the fisherman is to be employed or engaged;
7. If possible, the place at which and date on which the fisherman is required to report on board for service;
8. The provisions to be supplied to the fisherman, [unless some alternative system is provided for by national law or regulation];
9. The amount of wages, or the amount of the share and the method of calculating such share if remuneration is to be on a share basis, or the amount of the wage and share and the method of calculating the latter if remuneration is to be on a combined basis, and any agreed minimum wage;
10. The termination of the agreement and the conditions thereof, namely:
11. If the agreement has been made for a definite period, the date fixed for its expiry;

12. If the agreement has been made for a voyage, the port of destination and the time which has to expire after arrival before the fisherman shall be discharged;

13. If the agreement has been made for an indefinite period, the conditions which shall entitle either party to rescind it, as well as the required period of notice for rescission, provided that such period shall not be less for the employer, or fishing vessel owner or other party to the agreement with the fisherman;

14. The protection that will cover the fisherman in the event of sickness, injury or death in connection with service;

15. The amount of paid annual leave or the formula used for calculating leave, where applicable;

16. The health and social security coverage and benefits to be provided to the fisherman by the employer, fishing vessel owner, or other party or parties to the fisher's work agreement, as applicable;

17. The fisherman's entitlement to repatriation;

18. A reference to the collective bargaining agreement, where applicable;

19. The minimum periods of rest.

SCHEDULE 2

Revocations

The following instrument [s] are revoked.

The Merchant Shipping (Provisions and Water Regulations) 1989 (SI 1989/102)]

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations implement parts of the Work in Fishing Convention, 2006 (Cmd. ###) (the “Convention”). They apply to United Kingdom fishing vessels wherever they may be and to fishing vessels in United Kingdom waters.

Part 2 implements Article 9 of the Convention (Minimum age). Persons under the age of 16 must not work as fishermen and, with some exceptions, fishermen under the age of 18 must not work on fishing vessels at night (regulations 6 and 7).

Part 3 implements Articles 16 to 20 of the Convention (fishers' work agreements) and Article 24 (payment of fishers). Every fisherman is required to have a fisherman's work agreement with another person in respect of their work on a fishing vessel and the agreement must contain certain specified provisions (regulations 8 and 9). Fishermen are entitled to receive an account of the wages or other remuneration due to them, at intervals not exceeding one month (regulations 12 and 13)

Part 4 implements Article 21 of the Convention (repatriation). In the cases specified, a fishing vessel owner must make provision for the repatriation of a fisherman (regulations 14 to 16) and the fishing vessel owner is required to make provision for that fisherman's relief and maintenance pending repatriation. A fisherman must not be required to pay towards the costs of such repatriation or relief and maintenance, other than in cases of serious misconduct (regulation 17). Where a fishing vessel owner fails to make provision for the repatriation of seafarers, or for their relief and maintenance pending repatriation, the Secretary of State is required to make such provision in the case of United Kingdom ships (and may do so in relation to non-United Kingdom ships) (regulation 19). Regulation 20, which applies to all ships within the scope of these Regulations, requires a contract of insurance or other security, adequate to ensure that the fishing vessel owner will be able to meet any liabilities arising from the duty to repatriate under regulations 14 and 19, to be in place.

Part 5 implements Articles 25 to 28 of the Convention (Accommodation and food). Fishing vessels are required to comply with the requirements relating to crew accommodation set out in Merchant Shipping Notice 1844 (M) and there are related inspection requirements (regulation 21). Provision is made to allow the Secretary of State to exempt ships from certain requirements in that Notice and to approve requirements which are substantially equivalent (regulation 22). Provision is made in relation to the quantity and quality of food and drinking water provided for seafarers on board a ship and such food and water must be provided free of charge (regulation 23). Provision is made in relation to the storage and handling of food and drinking water provided for seafarers and the organisation and equipment of catering departments on board ships, with related inspection requirements (regulations 23, 24 and 25).

Part 6 implements Articles 29 and 30 of the Convention (Medical care). A fisherman who is sick or injured is entitled to medical care on board ship and ashore.

Part 7 confers powers to allow the inspection and detention of fishing vessel where breaches of these Regulations have occurred.

Part 8 Provides for criminal penalties are attached to many of the requirements in the Regulations.

Part 12 specifies the mode of trial and the maximum penalty level applicable to each offence (regulation 28) and provides a “reasonable steps” defence for all offences (regulation 29).

Part 10 contains a provision requiring the Secretary of State to review the Regulations and to publish a report of that review within five years of their coming into force (and within every five years after that). Following a review it will fall to the Secretary of State to consider whether the Regulations should remain as they are, or be revoked or be amended. A further instrument would be needed to revoke the relevant provisions or to amend them.

Part 10 requires the Secretary of State to review the operation and effect of these Regulations and publish a report within five years after they come into force and within every five years after that. Following a review it will fall to the Secretary of State to consider whether the Regulations should remain as they are, or be revoked or be amended. A further instrument would be needed to revoke the Regulations or to amend them.

Schedule 1 sets out the provisions that must be included in the fisherman's work agreement.

These Regulations are made under sections 85(1)(a) and (b), (3) and (5) to (7) and 86(1) of the Merchant Shipping Act 1995 except in so far as (a) they relate to parts of the Work in Fishing Convention, 2008 which do not concern the health or safety of persons on ships and (b) they relate to government ships. Section 2(2) of the European Communities Act 1972 is used to (a) ensure that all parts of the Work in Fishing Convention, 2006 are covered by these Regulations.

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A full impact assessment of the effect that this instrument will have on the costs of business and the voluntary sector is published with the Explanatory Memorandum alongside this instrument on www.legislation.gov.uk.