



STATUTORY INSTRUMENTS.

**S.I. No. 267 of 2020**

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EUROPEAN UNION (INTERNATIONAL LABOUR ORGANISATION  
WORK IN FISHING CONVENTION) (FOOD AND ACCOMMODATION)  
REGULATIONS 2020

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I, Eamon Ryan, Minister for Transport, Tourism and Sport, 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 Articles 21, 22, 23, 24 and 25 and Annex II of the Annex to Council Directive (EU) 2017/159 of 19 December 2016<sup>1</sup>, and Article 3 of that Directive in so far as it relates to those provisions, hereby make the following regulations:

**PART 1**

**General**

**Citation and commencement**

1. (1) These Regulations may be cited as the European Union (International Labour Organisation Work in Fishing Convention) (Food and Accommodation) Regulations 2020.

(2) These Regulations shall come into operation on 2<sup>nd</sup> August 2020.

**Interpretation**

2. (1) In these Regulations -

“authorised officer” shall be construed in accordance with Regulation 50(1);

“competent authority” means the body designated as the competent authority under Regulation 5;

“decked vessel” means a fishing vessel -

- (a) having a fixed structural deck covering the entire hull above the deepest operating waterline, and
- (b) which, if fitted with any open well or cockpit in the deck referred to in paragraph (a), that open well or cockpit, if flooded, does not endanger the fishing vessel;

“direction” has the meaning assigned to it by Regulation 52(1);

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<sup>1</sup> OJ No. L 25, 31.1.2017, p.12

“Directive” means Council Directive (EU) 2017/159 of 19 December 2016<sup>1</sup> implementing the Agreement concerning the implementation of the Work in Fishing Convention, 2007 of the International Labour Organisation, concluded on 21 May 2012 between the General Confederation of Agricultural Cooperatives in the European Union (Cogeca), the European Transport Workers’ Federation (ETF) and the Association of National Organisations of Fishing Enterprises in the European Union (Europêche);

“existing vessel” means a fishing vessel that is not a new fishing vessel;

“fisherman” means a person who works in any capacity under a contract of employment or in an employment relationship on board a fishing vessel, including any other person engaged in activities related to fishing who is present on the same vessel in order to protect the overall health and safety of the persons on board, but does not include -

- (a) a person who is a pilot within the meaning of the Harbours Act 1996 (No. 11 of 1996), or
- (b) a shore person carrying out work on board a fishing vessel at the quay side;

“fisherman’s work agreement” means a contract of employment or other similar arrangement, or any other contract governing a fisherman’s living and working conditions on board a fishing vessel;

“fishing vessel” means any ship or boat registered in the State, of any nature whatsoever, irrespective of the form of ownership, used or intended to be used for the purpose of commercial fishing;

“length” means 96 per cent of the total length on a waterline at 85 per cent of the least depth, or the length from the foreside of the stem to the axis of the rudder stock on that waterline, if that length is greater. In vessels designed with a rake of keel the waterline on which this length is measured shall be parallel to the designed waterline;

“master” means the fisherman having command of a fishing vessel;

“Minister” means the Minister for Transport, Tourism and Sport;

“new fishing vessel” means a decked vessel for which -

- (a) the building or major conversion contract has been placed on or after 16 November 2017,
- (b) the building or major conversion contract has been placed before 16 November 2017 and which is delivered three years or more after that date; or
- (c) in the absence of a building contract, on or after 16 November 2017 -
  - (i) the keel is laid,
  - (ii) construction identifiable with a specific vessel begins, or
  - (iii) assembly has commenced comprising at least 50 tonnes or one per cent of the estimated mass of all structural material, whichever is less;

“notice of detention” has the meaning assigned to it by Regulation 51(2);

“officer” means a fisherman who is designated as an officer in the safe manning document issued to the owner of the fishing vessel by the competent authority;

“owner” means the owner of a fishing vessel or any other organisation or person, such as the manager, agent or charterer, who has assumed responsibility for the operation of the fishing vessel from the owner;

“Regulations of 1999” means the Safety, Health and Welfare at Work (Fishing Vessels) Regulations, 1999 (S.I. No. 325 of 1999);

“Regulations of 2007” means the Merchant Shipping (Safety of Fishing Vessels) (15-24 Metres) Regulations 2007 (S.I. No. 640 of 2007).

(2) Unless the context otherwise requires, where reference is made in these Regulations to “adequate”, “appropriate” or “suitable”, in relation to accommodation requirements, the accommodation, equipment or fitting referred to shall be deemed to be adequate, appropriate or suitable, as the case may be -

- (a) if it is in compliance with standards or specifications that have been formulated or recommended by the National Standards Authority of Ireland and are applied by the competent authority having regard to the size of the fishing vessel, the number of fishermen on board, and the nature and duration of the voyage, or

- (b) if, in respect of equipment that is marine equipment falling within the scope of the European Union (Marine Equipment) Regulations 2017 (S.I. No. 177 of 2017), the equipment is in compliance with the requirements of those Regulations.

(3) A word or expression that is used in these Regulations and is also used in the Directive has, unless the context otherwise requires, the same meaning in these Regulations as it has in the Directive.

### **Application**

3. These Regulations apply to fishing vessels that are engaged in sea fishing.

### **Operation of Regulations of 1999 and Regulations of 2007**

4. These Regulations are without prejudice to the Regulations of 1999 and the Regulations of 2007.

### **Competent authority**

5. That part of the Department of Transport, Tourism and Sport which is known as the Marine Survey Office is designated as the competent authority in the State for the purposes of Articles 21, 22, 23, 24 and 25 and Annex II of the Annex to the Directive, and Article 3 of the Directive (in so far as that Article relates to those provisions) and these Regulations.

### **Maintenance of accommodation**

6. The master shall ensure that the accommodation on board the fishing vessel is maintained in a hygienic, safe, healthy and comfortable condition appropriate to the service of the vessel and the length of time the fishermen live on board.

### **Feeder vessels**

7. (1) In this Regulation, “feeder vessel” means a vessel which is launched from, and recovered to, a mother fishing vessel.

(2) Where a feeder vessel does not have appropriate accommodation and sanitary facilities on board the vessel, the owner of the mother fishing vessel shall ensure that a fisherman on the feeder vessel is provided with accommodation and sanitary facilities on board the mother fishing vessel.

## **PART 2**

### **Food and Drinking Water**

#### **Provision of food and drinking water**

8. (1) The master shall ensure that -

- (a) the food carried and served on board the fishing vessel shall be of suitable nutritional value, and of sufficient quality and quantity having regard to -
  - (i) the number of fishermen on board,
  - (ii) the nature and duration of the voyage, and
  - (iii) the religious requirements and cultural practices of the fishermen on board in relation to food,and
- (b) the drinking water provided on board the fishing vessel shall be of sufficient quality and quantity having regard to the number of fishermen on board the vessel and the nature and duration of the voyage.

(2) The owner shall, subject to paragraph (3), provide food and water on board at no cost to a fisherman.

(3) The cost of providing food and water on board may be recovered by the owner from a fisherman as an operational cost where this is provided for in a collective agreement governing a share system of the fisherman concerned or in the fisherman's work agreement.

## **PART 3**

### **Sleeping rooms-existing vessels of 24 metres in length and over**

9. The owner of an existing vessel of 24 metres in length and over shall ensure that not later than two years after the coming into operation of these Regulations the sleeping rooms in the fishing vessel meet the following requirements:

- (a) sleeping rooms shall be -
  - (i) of sufficient size and quality and appropriately equipped for the service of the vessel and the length of time fishermen live on board, and
  - (ii) so planned and equipped as to ensure reasonable comfort for the occupants and to facilitate tidiness,
- (b) equipment to be provided in sleeping rooms shall include berths and individual lockers that are of sufficient size for putting clothing and other personal effects,

- (c) the maximum number of persons to be accommodated in any sleeping room shall be legibly and indelibly marked in a place in the room where it can be conveniently seen,
- (d) mattresses shall be of a suitable material, and
- (e) local lighting shall be provided in each berth.

#### **PART 4**

#### **Accommodation-decked vessels of 15 metres in length overall (Loa) and over but less than 24 metres in length**

##### **Application-Part 4**

10. (1) This Part applies to -

- (a) a new fishing vessel of 15 metres in length overall (Loa) and over but less than 24 metres in length, and
- (b) an existing decked vessel of 15 metres in length overall (Loa) and over but less than 24 metres in length where the accommodation is substantially altered or reconstructed on or after 16 November 2017.

(2) In this Regulation, “length overall (Loa)” means the length measured in a straight line from the fore part of the stem at top to the aftermost tide of the transom or stern contour.

##### **Change in flag of vessel**

11. Where a fishing vessel -

- (a) changes the flag it flies on or after 16 November 2017 to the flag of the State, and
- (b) it is a vessel referred to in Regulation 10(1)(a) or (b),

the accommodation on the fishing vessel shall, where reasonable and practicable, meet the requirements of this Part.

##### **Duty of owner**

12. An owner of a fishing vessel to which this Part applies shall ensure that the accommodation on the fishing vessel meets the requirements of this Part.

##### **Approval of plans**

13. Before -

- (a) the construction of a fishing vessel referred to in Regulation 10(1)(a) commences, or

- (b) the accommodation of an existing vessel referred to in Regulation 10(1)(b) is substantially altered or reconstructed,

the owner shall submit detailed plans of and information concerning the proposed accommodation to the competent authority for approval.

### **Drainage**

14. Sufficient drainage shall be provided in accommodation spaces.

### **Ventilation and lighting**

15. (1) Ventilation arrangements or other measures shall be such as to protect non-smokers from tobacco smoke.

(2) Where sleeping spaces have natural light, a means of blocking light shall be provided.

(3) Adequate reading light shall be provided for every berth in addition to the normal lighting of the sleeping room.

(4) Emergency lighting shall be provided in sleeping rooms.

(5) Where the fishing vessel is not fitted with emergency lighting in mess rooms, passageways, and any other spaces that are or may be used for emergency escape, permanent night lighting shall be provided in such spaces.

### **Sleeping rooms**

16. (1) The number of persons allowed to occupy each sleeping room shall not be more than six.

(2) A separate sleeping room or sleeping rooms shall be provided for officers, wherever practicable.

(3) Local lighting shall be provided in each berth.

(4) Sleeping accommodation shall be situated or equipped, as practicable, so as to provide appropriate levels of privacy for men and women.

### **Mess rooms**

17. (1) Mess rooms shall in no case be located forward of the collision bulkhead.

(2) Facilities for making hot and cold drinks shall be available and accessible to fishermen at all times.

### **Sanitary facilities**

18. (1) Sanitary facilities shall allow for reasonable privacy.

(2) Floors in sanitary accommodation shall have a non-slip deck covering.



### **Bedding, mess utensils and miscellaneous provisions**

19. (1) Eating utensils, bedding and other linen that are of sufficient quantity, quality and cleanliness shall be provided to all fishermen on board.

(2) The cost of linen (other than bedding) may be recovered by the owner from a fisherman as an operational cost where this is provided for in a collective agreement governing the share system of the fisherman concerned or in the fisherman's work agreement.

### **Communication facilities**

20. Every fisherman on board shall be given reasonable access to communication facilities, to the extent practicable, at a reasonable cost and not exceeding the full cost to the owner.

### **Galley and food storage facilities**

21. Containers of butane or propane gas used for cooking purposes in a galley shall be kept on the open deck and in a shelter which is designed to protect them from external heat sources and external impact.

### **Clean and habitable conditions**

22. (1) Accommodation shall be maintained in a clean and habitable condition and the accommodation shall be kept free of goods and stores which are not the personal property of the occupants or for their safety or rescue.

(2) Galley and food storage facilities shall be maintained in a hygienic condition.

(3) Waste shall be kept in closed, well-sealed containers and removed from food handling areas whenever necessary.

### **Other facilities**

23. A place for hanging foul-weather gear and other personal protective equipment shall be provided outside of, but convenient to, sleeping rooms.

### **Provision stores**

24. A suitable place for provisions shall be provided which has adequate capacity and which can be kept dry, cool and well ventilated in order to avoid deterioration of the stores. Refrigerators or other low temperature storage shall be used, where possible.

## **Part 5**

### **Accommodation-decked vessels of 24 metres in length and over**

#### **Application-Part 5**

25. This Part applies to -

- (a) a new fishing vessel of 24 metres in length and over, and
- (b) an existing decked vessel of 24 metres in length and over where the accommodation is substantially altered or reconstructed on or after 16 November 2017.

#### **Change in flag of vessel**

26. Where a fishing vessel -

- (a) changes the flag it flies on or after 16 November 2017 to the flag of the State, and
- (b) it is a vessel referred to in Regulation 25(a) or (b),

the accommodation on the fishing vessel shall, where reasonable and practicable, meet the requirements of this Part.

#### **Duty of owner**

27. An owner of a fishing vessel to which this Part applies shall ensure that the accommodation on the fishing vessel meets the requirements of this Part.

#### **Approval of plans**

28. Before -

- (a) the construction of a fishing vessel referred to in Regulation 25(a) commences, or
- (b) the accommodation of an existing vessel referred to in Regulation 25(b) is substantially altered or reconstructed,

the owner shall submit detailed plans and information concerning the proposed accommodation to the competent authority for approval.

#### **Design and Construction**

29. The minimum permitted headroom in all accommodation where full and free movement is necessary shall not be less than 200 centimetres.

### **Openings into and between accommodation spaces**

30. (1) There shall be no direct openings, except for the purposes of emergency escape, into sleeping rooms from fish rooms and machinery spaces or from galleys, storerooms, drying rooms or communal sanitary areas.

(2) That part of the bulkhead separating such places from sleeping rooms and external bulkheads shall be efficiently constructed of steel or another approved material and shall be watertight and gas tight.

(3) Paragraphs (1) and (2) do not exclude the possibility of sanitary areas being shared between two cabins.

### **Insulation**

31. (1) Accommodation spaces shall be adequately insulated.

(2) The material used to construct internal bulkheads, panelling and sheeting, and floors and joinings shall be suitable for the purpose and shall be conducive to ensuring a healthy environment.

(3) Sufficient drainage shall be provided in all accommodation spaces.

(4) All practicable measures shall be taken to protect accommodation on board fishing vessels against flies and other insects, particularly when vessels are operating in mosquito-infested areas.

(5) Emergency escapes from all accommodation spaces shall be provided as necessary.

### **Ventilation**

32. (1) Accommodation shall be equipped with a system of ventilation which shall be controlled so as to maintain the air in a satisfactory condition and to ensure sufficiency of air movement in all weather conditions and climates.

(2) Ventilation systems shall be in operation at all times when fishermen are on board.

(3) Ventilation arrangements or other measures shall be such as to protect non-smokers from tobacco smoke.

### **Heating and Air Conditioning**

33. (1) Adequate heat shall be provided, through an appropriate heating system, except in fishing vessels operating exclusively in tropical climates.

(2) The system of heating referred to in paragraph (1) shall provide heat in all conditions, as necessary, and shall be in operation when fishermen are living or working on board and when conditions so require.

(3) Air conditioning shall be provided in accommodation spaces, the bridge, the radio room and any centralised machinery control room.

(4) The requirement in paragraph (3) does not apply to vessels regularly engaged in areas where temperature climatic conditions do not require air conditioning.

### **Lighting**

34. (1) All accommodation spaces shall be provided with adequate light.

(2) Where practicable, accommodation spaces shall be lit with natural light in addition to artificial light.

(3) Where sleeping spaces have natural light, a means of blocking the light shall be provided.

(4) Adequate reading light shall be provided for every berth in addition to the normal lighting of the sleeping room.

(5) Emergency lighting shall be provided in sleeping rooms.

(6) Where the fishing vessel is not fitted with emergency lighting in mess rooms, passageways, and any other spaces that are or may be used for emergency escape, permanent night lighting shall be provided in such spaces.

(7) In any part of the accommodation space available for free movement, the minimum standard for lighting shall be such as to permit a person with normal vision to read an ordinary printed newspaper on a clear day.

### **Sleeping Rooms**

#### **General**

35. Where the design, dimensions and purpose of the vessel allow, the sleeping accommodation shall be located so as to minimise the effects of motion and acceleration but shall in no case be located forward of the collision bulkhead.

#### **Floor Area**

36. (1) For vessels of 24 metres in length and over but which are less than 45 metres in length, the floor area per person of sleeping rooms, excluding space occupied by berths and lockers, shall not be less than 1.5 square metres.

(2) For vessels of 45 metres in length and over, the floor area per person of sleeping rooms, excluding space occupied for berths and lockers, shall not be less than 2 square metres.

#### **Persons per sleeping rooms**

37. (1) The number of persons allowed to occupy each sleeping room shall not be more than four.

(2) Sleeping rooms for officers shall be for one person wherever possible and in no case shall the sleeping room contain more than two berths.

(3) An owner may apply to the competent authority for an exemption from the requirement to comply with paragraph (1) or paragraph (2), as the case may be, in respect of his or her fishing vessel.

(4) An application under paragraph (3) shall be made in writing and shall state the reason why, in the opinion of the owner, having regard to the size, type or intended service of the fishing vessel concerned, the grant of an exemption is required.

(5) Upon receipt of an application made in accordance with paragraph (4), the competent authority may, if it is satisfied that the size, type or intended service of the fishing vessel would make the requirement set out in paragraph (1) or the requirements set out in paragraph (2) unreasonable or impracticable to comply with in respect of the fishing vessel concerned, grant an exemption from the requirement to comply with paragraph (1) or (2), as the case may be.

(6) The competent authority shall notify the owner in writing of its decision and the notice shall specify the reasons for that decision.

(7) Where the competent authority grants an exemption under paragraph (5) the notice shall specify -

- (a) the date on which it takes effect, and
- (b) the terms on which the exemption is granted.

(8) On giving reasonable notice to the owner, the competent authority may

-

- (a) where it considers that the terms on which the exemption was granted are not being complied with, or
- (b) for reasons concerning the protection of the health or safety of the fishermen on board,

revoke an exemption granted under paragraph (5) and the notice shall specify the reasons for that decision.

### **Persons per sleeping rooms**

#### **Other**

38. (1) The maximum number of persons to be accommodated in any sleeping room shall be legibly and indelibly marked in a place in the room where it can be conveniently seen.

(2) Individual berths, the minimum inside dimensions of which shall not be less than 198 by 80 centimetres, shall be provided.

(3) The mattresses shall be of a suitable material.

(4) Local lighting shall be provided in each berth.

(5) Sleeping rooms shall be planned and equipped so as to ensure reasonable comfort for the occupants and to facilitate tidiness.

(6) Equipment provided shall include berths, individual lockers sufficient for clothing and other personal effects, and a desk suitable for writing, with a chair.

(7) Sleeping accommodation shall be situated or equipped, as practicable, so as to provide appropriate levels of privacy for men and women.

### **Mess Rooms**

39. (1) Mess rooms shall be as close as possible to the galley, but in no case shall a mess room be located forward of the collision bulkhead.

(2) Mess room accommodation shall be separate from sleeping quarters.

(3) The dimensions and equipment of each mess room shall be sufficient for the number of persons likely to use it at any one time.

(4) A refrigerator of sufficient capacity and facilities for making hot and cold drinks shall be available and accessible to fishermen at all times.

### **Tubs or Showers, Toilets and Washbasins**

40. (1) Sanitary facilities, which include toilets, washbasins and tubs or showers, shall be provided for all persons on board, as appropriate for the service of the vessel.

(2) The facilities referred to in paragraph (1) shall meet at least minimum standards of health and hygiene and reasonable standards of quality.

(3) The sanitary accommodation shall be such as to eliminate contamination of other spaces.

(4) The sanitary facilities shall allow for reasonable privacy.

(5) Hot and cold running fresh water shall be available to all fishermen and other persons on board in sufficient quantities to allow for proper hygiene.

(6) Sanitary facilities shall be fitted with ventilation to the open air, independent of any other part of the accommodation.

(7) All surfaces in sanitary accommodation shall be such as to facilitate easy and effective cleaning.

(8) Floors in sanitary accommodation shall have a non-slip deck covering.

(9) For all fishermen who do not occupy rooms to which sanitary facilities are attached, there shall be provided at least one tub or shower or both, one toilet and one washbasin for every four persons or fewer.

### **Laundry Facilities**

41. (1) Adequate facilities for washing, drying and ironing clothes shall be provided.

(2) For vessels of 45 metres in length and over, adequate facilities for washing, drying and ironing clothes shall be provided in a compartment

separate from sleeping rooms, mess rooms and toilets and shall be adequately ventilated, heated and equipped with lines or other means for drying clothes.

### **Other Facilities**

42. A place for hanging foul-weather gear and other personal protective equipment shall be provided outside of, but convenient to, sleeping rooms.

### **Bedding, Mess Utensils and Miscellaneous Provisions**

43. (a) Eating utensils, bedding and other linen that are of sufficient quality, quantity and cleanliness shall be provided to all fishermen on board.
- (b) The cost of linen (other than bedding) may be recovered by the owner from a fisherman as an operational cost where this is provided for in a collective agreement governing the share system of the fisherman concerned or in the fisherman's work agreement.

### **Recreational Facilities**

44. (1) Appropriate recreational facilities, amenities and services shall be provided for all fishermen on board.

- (2) Where appropriate, mess rooms may be used for recreational activities.

### **Communication Facilities**

45. Every fisherman on board shall be given reasonable access to communications facilities to the extent practicable and at a reasonable cost that does not exceed the cost to the owner.

### **Galley and Food Storage Facilities**

46. (1) There shall be a separate galley.

(2) The galley shall be of adequate size for its purpose and it shall be well-lit and ventilated, and properly equipped and maintained.

(3) Containers of butane or propane gas used for cooking purposes in a galley shall be kept on the open deck and in a shelter which is designed to protect them from external heat sources and external impact.

(4) A suitable place that has adequate capacity which can be kept dry, cool and well ventilated in order to avoid deterioration of stores shall be provided for provisions. Refrigerators or other low temperature storage shall be used, where possible.

### **Clean and Habitable Conditions**

47. (1) Accommodation shall be maintained in a clean and habitable condition and the accommodation shall be kept free of goods and stores which are not the personal property of the occupants or for their safety or rescue.

(2) Galley and food storage facilities shall be maintained in a hygienic condition.

(3) Waste shall be kept in closed, well-sealed containers and removed from food handling areas whenever necessary.

### **Inspections by master**

48. (1) The master shall carry out weekly inspections to ensure that -

- (a) the accommodation on board the fishing vessel is clean, decently habitable and safe and is maintained in a good state of repair,
- (b) food and water supplies are sufficient, and
- (c) galley and food storage spaces and equipment are hygienic and in a proper state of repair.

(2) The master shall record the results of an inspection carried out under paragraph (1) and, where the inspection found deficiencies in the requirements of paragraph (1)(a), (b) or (c), the record shall detail the actions taken to address those deficiencies.

(3) The owner shall -

- (a) retain the record of the results of an inspection referred to in paragraph (2) for a period of at least one year from the date of the inspection, and
- (b) ensure that the record is made available for inspection by an authorised officer.

## **PART 6**

### **Dispute resolution procedure**

#### **Dispute resolution procedure**

49. (1) The owner shall ensure that there is available to a fisherman on that fishing vessel a procedure (in this Regulation referred to as a “dispute resolution procedure”) for submitting a complaint concerning accommodation that does not meet the requirements of these Regulations and, where applicable, the requirements referred to in paragraph (7), and for resolving fairly, effectively and expeditiously any disputes arising from the complaint.

(2) The dispute resolution procedure shall -

- (a) seek to have the matter resolved on board the fishing vessel,



- (b) enable the fisherman to make a complaint directly to the owner, the master or the competent authority, and
  - (c) include the right of a fisherman to be accompanied or represented during the course of the procedure.
- (3) The owner shall ensure that a fisherman joining the fishing vessel has been provided with -
  - (a) a copy of the dispute resolution procedure, and
  - (b) the contact information for the competent authority.
- (4) A fisherman may make a complaint to the competent authority alleging a breach of the requirements of these Regulations or, where applicable, the requirements referred to in paragraph (7) and the competent authority shall treat the source of the information provided in the complaint as confidential.
- (5) On receipt of a complaint under paragraph (4) the competent authority may nominate an authorised officer to investigate the complaint.
- (6) An authorised officer nominated by the competent authority under paragraph (5) may, without prejudice to his or her powers under Regulation 50(2), while the fishing vessel concerned is in the State -
  - (a) board the fishing vessel for the purposes of investigating a complaint made under paragraph (4), and
  - (b) facilitate negotiations between the fisherman and the owner or the master, as appropriate, for the purposes of resolving the complaint.
- (7) A complaint made under the dispute resolution procedure or made to the competent authority under paragraph (4) may -
  - (a) in respect of accommodation on a fishing vessel to which Part 4 applies, include a complaint that the accommodation does not meet the accommodation requirements that are applicable to such a vessel under the Regulations of 2007, and
  - (b) in respect of accommodation on a fishing vessel to which Part 5 applies, include a complaint that the accommodation does not meet the accommodation requirements that are applicable to such a vessel under Schedule 1 to the Regulations of 1999.
- (8) Nothing in this Regulation shall affect any right of complaint or redress that a fisherman has other than under this Regulation.

## **PART 7**

### **Enforcement**

#### **Authorised officers**

50. (1) A person appointed as a surveyor of ships under section 724 of the Merchant Shipping Act 1894 (c. 60) shall be an authorised officer for the purposes of these Regulations.

(2) For the purposes of ensuring compliance with these Regulations, an authorised officer may do any of the following:

- (a) at all reasonable times board any fishing vessel while the vessel is in the State;
- (b) search and inspect the fishing vessel and any documents or records found on board;
- (c) require any person on board the fishing vessel to give him or her such assistance and information and to produce to the authorised officer any report, document or record (including, in the case of information in a non-legible form, a copy of the information, or of extracts from it, in permanent legible form) as he or she may reasonably require for the purposes of his or her functions under these Regulations;
- (d) inspect, examine and take copies, or extracts from, or take away, if necessary, for the purposes of inspection or examination, any report, document or record (including in the case of information in non-legible form, a copy of the information, or of extracts from it, in permanent legible form) that the authorised officer finds in the course of his or her inspection and require the person by whom such report, document or record is kept or who produced the report, document or record to certify the copy as a true copy;
- (e) detain a fishing vessel in accordance with Regulation 51.

(3) Where he or she considers it necessary, an authorised officer may be accompanied by a member of the Garda Síochána when exercising any powers conferred on him or her by these Regulations.

### **Notice of detention**

51. (1) An authorised officer may detain a fishing vessel in a port in the State where he or she is of the opinion that -

- (a) there has been a failure to comply with the requirements of these Regulations, and
- (b) the detention of the vessel is necessary for the protection of the health and safety of the fishermen on board the vessel.

(2) Where a fishing vessel has been detained under paragraph (1), the competent authority shall serve a notice (in these Regulations referred to as a “notice of detention”) on the master of the fishing vessel concerned.

(3) A notice of detention shall -

- (a) state the grounds upon which the fishing vessel is detained,
- (b) identify the provision of these Regulations that has not been or is not being complied with by the person,

- (c) specify the action to be taken before the notice of detention will be withdrawn and, where appropriate, the period within which that action shall be taken,
- (d) inform the person of the requirement to confirm compliance with the notice of detention under paragraph (4),
- (e) inform the person of the right to appeal the notice of detention in accordance with Regulation 53,
- (f) state that a failure to comply with the notice of detention is an offence under Regulation 55, and
- (g) be signed and dated by the competent authority.

(4) A person on whom a notice of detention has been served who is of the opinion that the notice of detention has been complied with shall confirm such compliance in writing to the competent authority.

(5) Where a person confirms compliance under paragraph (4), the competent authority shall, on being satisfied that the person has so complied, by notice in writing to the person, withdraw the notice of detention.

(6) The competent authority may, where it considers it appropriate to do so, by notice in writing to the person on whom a notice of detention was served, withdraw the notice of detention.

(7) A person on whom a notice of detention has been served may appeal the notice in accordance with Regulation 53.

### **Directions**

52. (1) Where the competent authority considers that the owner or the master is failing to comply with these Regulations the competent authority may serve a direction (in these Regulations referred to as a “direction”) on that person.

(2) A person on whom a direction is served under paragraph (1) may, within 14 days of the service of the direction, make representations in writing to the competent authority in relation to the direction.

(3) Any representations made under paragraph (2) shall be considered by the competent authority in deciding to confirm, modify or withdraw the direction.

(4) The competent authority may, where it considers it appropriate to do so, by notice in writing to the person on whom a direction was served, confirm, modify or withdraw the direction.

(5) A direction shall -

- (a) state the grounds upon which the direction is made,
- (b) identify the provision of these Regulations that has not been or is not being complied with by the person,

- (c) specify the action to be taken by the person on whom the direction is served and, where appropriate, the period within which that action shall be taken,
- (d) inform the person of the requirement to confirm compliance with the direction under paragraph (7),
- (e) inform the person of the right to appeal the direction in accordance with Regulation 53,
- (f) state that a failure to comply with the direction is an offence under Regulation 55, and
- (g) be signed and dated by the competent authority.

(6) A direction shall be complied with within such period as may be specified in the direction.

(7) A person on whom a direction has been served, who is of the opinion that the direction has been complied with, shall confirm such compliance in writing to the competent authority as soon as practicable after so complying.

(8) Where a person confirms compliance under paragraph (7), the competent authority shall, on being satisfied that the person has so complied, give notice to the person confirming that compliance.

(9) A person on whom a direction has been served may appeal the direction in accordance with Regulation 53.

### **Appeals**

53. (1) A person aggrieved by a notice of detention or a direction may appeal against -

- (a) the notice of detention, to a judge of the District Court in whose district the fishing vessel has been detained, or
- (b) the direction, to a judge of the District Court in whose district the person ordinarily resides or carries on business.

(2) An appeal may be made not later than 21 days from the date -

- (a) the notice of detention was served under Regulation 51(2), or
- (b) the direction -
  - (i) was served under Regulation 52(1), or
  - (ii) was confirmed or modified under Regulation 52(4).

(3) A copy of the notice of appeal shall be given by the person making an appeal to the competent authority not less than 48 hours before the hearing of the appeal and the competent authority shall be entitled to appear, be heard and adduce evidence on the hearing of the appeal and at the hearing of any application referred to in paragraph (4).

(4) The bringing of an appeal shall not have the effect of suspending the operation of the notice of detention or the direction, as the case may be, but the

District Court may, on application to it by the appellant, suspend its operation until the appeal is determined or withdrawn.

(5) On the hearing of an appeal under this Regulation, the District Court may confirm, vary or revoke the notice of detention or the direction as the case may be.

### **Service of documents**

54. (1) A direction, or notice of detention or other document that is required to be given to or served on a person under these Regulations shall be addressed to the person concerned by name and may be given to or served on the person in one of the following ways -

- (a) by delivering it to the person,
- (b) by leaving it at the address at which the person ordinarily resides or carries on business or, in a case in which an address for service has been given, at that address,
- (c) by sending it by post in a prepaid registered letter to the person at the address at which the person ordinarily resides or carries on business or, in a case in which an address for service has been given, to that address, or
- (d) by electronic means, in a case in which the person has given notice in writing to the person serving or giving the direction, notice or document concerned of his or her consent to the direction, notice or document (or documents of a class to which the direction, notice or document belongs) being served on, or given to, him or her in that manner.

(2) For the purpose of these Regulations, a company registered under the Companies Acts is deemed to be ordinarily resident at its registered office, and every other body corporate and every unincorporated body of persons shall be deemed to be ordinarily resident at its principal office or place of business.

(3) Where an opinion, finding, statement or decision of the competent authority is contained in a document which -

- (a) is purported to have been made by or at the direction of the competent authority, and
- (b) is produced in evidence by an authorised officer in any proceedings,

the document shall be evidence of any such opinion, finding, statement or decision in such proceedings without further proof.

### **Offences and Penalties**

55. (1) An owner shall be guilty of an offence where he or she fails to comply with Regulation 7(2), 8(2), 13, 28, 48(3) or 49(3).

(2) A person shall be guilty of an offence where he or she fails to comply with a direction served on him or her under Regulation 52.

(3) A master shall be guilty of an offence where he or she fails to comply with Regulation 48(2) or a notice of detention served on him or her under Regulation 51.

(4) A person shall be guilty of an offence where he or she -

- (a) prevents, obstructs, impedes or delays an authorised officer in the performance of his or her functions under these Regulations,
- (b) fails to comply with a requirement or request of an authorised officer under Regulation 50, or
- (c) gives to an authorised officer any information which is false or misleading in any material respect, knowing it to be so false or misleading.

(5) A person guilty of an offence under paragraph (1), (2), (3) or (4) shall be liable on summary conviction to a class A fine.

(6) Where an offence under these Regulations is committed by a body corporate and is proved to have been so committed with the consent or connivance of or to be attributable to any neglect on the part of any person, being a director, manager, secretary, or other officer of the body corporate, or a person who was purporting to act in such capacity, that person shall, as well as the body corporate, be guilty of an offence and shall be liable to be proceeded against and punished as if he or she were guilty of the first-mentioned offence.

(7) Summary proceedings for an offence under these Regulations may be brought and prosecuted by the Minister.



GIVEN under my Official Seal,  
28 July, 2020.

EAMON RYAN,  
Minister for Transport, Tourism  
and Sport.

## EXPLANATORY NOTE

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

These Regulations implement the provisions of Articles 3, 21, 22, 23, 24 and 25 and Annex II of the Annex to Council Directive 2017/159 (EU) implementing the Agreement concerning the implementation of the Work in Fishing Convention, 2007 of the International Labour Organisation, concluded on 21 May 2012 between the General Confederation of Agricultural Cooperatives in the European Union (Cogeca), the European Transport Workers' Federation (ETF) and the Association of National Organisations of Fishing Enterprises in the European Union (Europêche).

In particular, these Regulations place an onus on the master to ensure that the food and water carried and served on board fishing vessels is suitable and sufficient in terms of quality and quantity. They also place an onus on the owner of the vessel to ensure that the standard of accommodation on both new and existing fishing vessels, as well as fishing vessels which have been substantially altered or reconstructed on or after 16 November 2017, meet the requirements of these Regulations. They require that where a fishing vessel has changed the flag it flies on or after 16 November 2017 to the flag of the State, the accommodation on the fishing vessel shall meet the requirements of Regulations. They also require that before the construction of a fishing vessel covered by these Regulations, commences, or the accommodation of an existing vessel is substantially altered or reconstructed, detailed plans regarding the proposed accommodation must be submitted to the competent authority for approval. They also provide fishers with a means of submitting a complaint concerning accommodation that does not meet the requirements of these Regulations.

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