



STATUTORY INSTRUMENTS.

S.I. No. 315 of 2023

EUROPEAN UNION (INTERNATIONAL LABOUR ORGANISATION
WORK IN FISHING CONVENTION) (SAFE MANNING) REGULATIONS
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I, EAMON RYAN, Minister for Transport, 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 Article 10 of the Annex to Council Directive (EU) 2017/159 of 19 December 2016¹, and to Article 3 of that Directive, hereby make the following regulations:

Citation and commencement

1. (1) These Regulations may be cited as the European Union (International Labour Organisation Work in Fishing Convention) (Safe Manning) Regulations 2023.

(2) These Regulations come into operation on 1 July 2023.

Definitions

2. (1) In these Regulations –

“Act of 2010” means the Merchant Shipping Act 2010 (No. 14 of 2010);

“authorised officer” means –

- (a) a person duly appointed under Regulation 11(1), or
- (b) a person appointed as a surveyor of ships under section 724 of the Merchant Shipping Act 1894;

“Directive” means Council Directive (EU) 2017/159 of 19 December 2016¹;

“effective date” means –

- (a) 19 December 2019 for fishing vessels of 15 metres in length overall (L_{oa}) and over, constructed on or after that date;
- (b) the date of completion of the next survey for the grant of or renewal of a fishing vessel safety certificate or the date of completion of the next intermediate or periodical survey, whichever occurs later from the date of 19 December 2019, under the Merchant Shipping (Safety of Fishing Vessels) (15-24 Metres) Regulations 2007 (S.I. No. 640 of 2007) in relation to fishing vessels of 15 metres in L_{oa} and over but less than 24 metres in length, or
- (c) the date of completion of the next survey for the issue of a certificate of compliance or the date of completion of the next periodical or intermediate survey, whichever occurs later from 19 December 2019, under the Fishing Vessels (Safety

¹ OJ L 25, 31.1.2017, p. 12

Provisions) Regulations 2002 (S.I. No. 418 of 2002) in relation to fishing vessels of 24 metres in length and over;

“fisher” 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;

“fishing vessel” means any sea-going ship or boat of 15 metres in L_{oa} and over 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” in relation to a fishing vessel means the registered length shown on the vessel’s certificate of registry;

“Length overall (L_{oa})” means the length measured in a straight line from the fore part of the stem at top to the aftermost side of the transom or stern contour;

“limited area” means any location within the area bounded by a line from a point on the Norwegian coast in latitude 61° north due west to a point 61° north $14^{\circ}30'$ west, thence to a point 42° north $14^{\circ}30'$ west and thence due east to the Spanish Coast;

“master” (also known as the “skipper”) means a suitably qualified fisher who has been issued with a certificate of competency issued under the Regulations of 2023;

“Minister” means the Minister for Transport;

“MSO” means the Marine Survey Office of the Department of Transport;

“minimum safe manning document” means a document issued under Regulation 7 detailing the number and qualifications of personnel to be carried on board a fishing vessel to ensure it is sufficiently and safely manned;

“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 2023” means the Fishing Vessel (Certification of Deck Officers and Engineer Officers) Regulations 2023 (S.I. No. 313 of 2023);

“unlimited area” means any location not within the limited area.

(2) A word or expression that is used in these Regulations and is also used in the Directive has, unless the contrary intention appears, the same meaning in these Regulations that it has in the Directive.

Competent authority

3. The MSO is designated as the competent authority in the State for the purposes of the Directive.

Application

4. These Regulations apply to fishing vessels of 15 metres in L_{oa} and over. Consequently, Chapter 6 of the Act of 2010 no longer applies to fishing vessels 24 metres in length and over.

Deck officers

5. (1) Until such time that a safe manning document is in place, every fishing vessel of a length or L_{oa} as set out in column (2) of the Table to this paragraph shall, when going to sea to the fishing areas set out in relation to that description of vessel in column (1) of that Table, carry at least such number of qualified deck officers as are set out in column (3) of that Table opposite the description in column (2) and shall carry at least the total number of officers as are set out in column (4) of that Table opposite the description in column (2).

Table

Column (1)	Column (2)	Column (3) Minimum Number of Qualified Deck Officers to be carried on a fishing vessel					Column (4)
Area	Length or L_{oa}	Skipper Full	Skipper Limited	Second Hand Full	Skipper Limited <24m	Second Hand Limited	Total Number of Deck Officers to be carried on a fishing vessel
Unlimited	100 metres in length and over	1	-	3	-	-	4
Unlimited	50 metres in length and over to less	1	-	2	-	-	3

	than 100 metres in length						
Unlimited	Less than 50 metres in length	1	-	1	-	-	2
Limited	100 metres in length and over	1	-	-	-	2	3
Limited	50 metres in length and over to less than 100 metres in length	-	1	-	-	2	3 Limited
Limited	24 metres in length and over to less than 50 metres	-	1	-	-	1	2
Limited	15 metres in L _{oa} and over to less than 24 metres in length	-	-	-	1 (or Second Hand Special)	1	2

6 [315]

(2) The owner of a vessel who fails to comply with paragraph (1) commits an offence and is liable on summary conviction to a class A fine.

Engineer officers

6. (1) Until such time that a safe manning document is in place, every fishing vessel which has a registered power of 750 kilowatts or more of a description set out in column (1) of the Table to this paragraph, when going to sea shall carry such number of qualified engineer officers as set out in column (2) of that Table of such required classes of certification as set out in column (3) of that Table opposite the description in column (1).

Table

Column (1)	Column (2)	Column (3)		
Description of registered power of vessel (kilowatts)	Number of qualified engineer officers	Required Classes of Certification		
		Chief Engineer Officer	Second Engineer Officer	Third Engineer Officer
Vessels powered by main propulsion machinery of 3,000 kW propulsion power or more	3	Class 1 FV or STCW Reg III/2 Chief Engineer	Class 2 FV or STCW Reg III/2 Second Engineer	Class 3 FV or STCW Reg III/1 Officer in charge of an engineering watch
Vessels powered by main propulsion machinery of between 750 kW and 3,000 kW propulsion power	2	Class 2 FV or STCW Reg III/3 Chief Engineer	Class 3 FV or STCW Reg III/1 Officer in charge of an engineering watch	n/a

(2) The owner of a vessel who fails to comply with paragraph (1) commits an offence and is liable on summary conviction to a class A fine.

Safe manning

7. (1) An owner shall ensure that a fishing vessel for which he or she is the owner is under the control of a competent skipper.

(2) From the effective date, the minimum requirements specified in Regulations 5 and 6 shall no longer apply and it shall be the duty of every owner and master to ensure that:

- (a) there is a valid minimum safe manning document in respect of his or her fishing vessel;
- (b) the fishing vessel does not proceed to sea without a minimum safe manning document on board; and
- (c) the manning of the fishing vessel is maintained at all times to at least the level required by the minimum safe manning document.

(3) Before a fishing vessel proceeds to sea after the effective date, the owner of the vessel shall apply to the MSO for a minimum safe manning document in respect of the fishing vessel.

(4) An application under paragraph (3) shall be in writing and in such form and contain such information as the MSO may require.

(5) An application under paragraph (3) shall contain proposals as to the numbers and qualifications of deck officers, engineer officers and any such other personnel the owner considers should be carried on board the fishing vessel to ensure the vessel is sufficiently and safely manned for its safe navigation and operation, and appropriate work and living conditions for personnel on board.

(6) The owner shall take account of any guidance on safe manning issued by the MSO in the preparation of an application under paragraph (3).

(7) The MSO shall review an application under paragraph (3) and consider whether the proposals satisfy the safe manning requirements for the fishing vessel.

(8) Following a review under paragraph (7), the MSO shall –

- (a) where it is satisfied that the proposals satisfy the safe manning requirements for the fishing vessel, issue a minimum safe manning document, subject to such conditions as it sees fit, or
- (b) where it is not satisfied that the proposals meet the safe manning requirements for the fishing vessel, refuse to issue a minimum safe manning document and require the owner to amend his or her proposals.

(9) Where an application made under paragraph (3) proposes only one qualified skipper, an initial minimum safe manning document issued under subparagraph (8)(a) may be provided with a validity period of 2 years, following which the owner must apply to the MSO for a new minimum safe manning document.

(10) After a minimum safe manning document has been issued by the MSO under subparagraph (8)(a), the owner shall not reduce the manning of the vessel below the level required by the minimum safe manning document without the prior approval of the MSO.

(11) The minimum safe manning document issued to an owner under subparagraph (8)(a) ceases to be in force if any changes to or in relation to the fishing vessel are made regarding –

- (a) its area of operation,
- (b) its machinery or equipment, or
- (c) its operation and maintenance.

(12) The MSO may at any time by notice in writing to the owner revoke or vary a minimum safe manning document.

(13) Notwithstanding the revocation of the Fishing Vessels (Certification of Deck Officers and Engineer Officers) Regulations 1988 (S.I. No. 289 of 1988) and the Merchant Shipping (Safe Manning, Hours of Work and Watchkeeping) Regulations 1998 (S.I. No. 551 of 1998), any minimum safe manning document issued to a fishing vessel pursuant to either of those Regulations shall continue in force.

(14) The owner of a vessel who fails to comply with paragraph (1), (2), (3) or (10) commits an offence and is liable on summary conviction to a class A fine.

Qualifications

8. (1) For the purposes of these Regulations an officer shall be qualified if he or she is the holder for the time being of a certificate of competency issued under the Regulations of 2023, or of a certificate which is to be treated as equivalent to such a certificate by virtue of those Regulations and, at the material time, such certificate is in force in relation to the person named in it and is of a type (whether deck or engineer) and class appropriate to the officer's capacity in the fishing vessel.

(2) Regulations 5 and 6, insofar as they impose a requirement with respect to the carrying on board a fishing vessel of a qualified officer who is the holder of a certificate of competency of a particular class issued under the Regulations of 2023, shall be treated as complied with if the officer who is carried in pursuance of that requirement is the holder of a certificate of competency issued under those Regulations of a higher class or of a certificate which is to be treated as equivalent to such a certificate of a higher class by virtue of those Regulations.

Working language

9. (1) Every owner, or master as appropriate, shall ensure that in relation to each fishing vessel –

- (a) a working language has been established,
- (b) the working language is recorded in the fishing vessel logbook,
- (c) every fisher understands the working language,
- (d) where deemed necessary, fishers shall have the ability to –

- (i) give orders and instructions, and
- (ii) report back,

in the working language, and

- (e) all plans and lists required to be posted on the fishing vessel shall be provided in English, and if the working language of the fishing vessel is not English all plans and lists shall include a translation into the working language.

(2) Every fisher shall ensure that he or she understands the working language of the fishing vessel.

(3) Subject to paragraph (4), every owner, or master as appropriate, shall ensure English is used on the bridge as the working language for –

- (a) bridge-to-bridge safety communications,
- (b) bridge-to-shore safety communications, and
- (c) communications between bridge watchkeeping crew and every pilot.

(4) If the persons involved in a communication referred to at paragraph (3)(a) speak a common language other than English that language may be used for the communication.

Watchkeeping arrangements

10. (1) Subject to paragraph (2) no person shall act in a capacity which requires a certificate of competency unless he or she holds such a certificate or a certificate of equivalent competency.

(2) In the event of the death or incapacity of any officer certified under the Regulations of 2023, a deck officer or engineer officer, as appropriate, who is not certified to act in that capacity may act in the certificated capacity until the vessel reaches the next intended port of call.

(3) Except in the case of vessels of less than 24 metres in length operating in the limited area, the skipper or other person in charge of a vessel shall not permit any person to be in charge of a navigational watch unless that person holds an appropriate certificate of competency or certificate of equivalent competency.

(4) No person shall appoint any other person to act in a capacity for which he or she is not duly qualified in accordance with the Regulations of 2023.

Authorised officers

11. (1) The Minister may appoint such and so many persons as he or she thinks fit to be authorised officers for the exercise of his or her functions under 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 vessel while the vessel is in the State;
- (b) search and inspect the vessel and any documents or records found on board;
- (c) require any person on board the 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 a 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 vessel in accordance with Regulation 12.

(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.

(4) A person who –

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

commits an offence and is liable on summary conviction to a class A fine.

Detention

12. (1) An authorised officer may detain a 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 Regulation 7(2), and
- (b) the detention of the vessel is necessary for the protection of the health and safety of the crew on board the vessel.

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

(3) A notice of detention shall –

- (a) state the grounds upon which the vessel is detained,
- (b) identify the provision of these Regulations that has not been or is not being complied with,
- (c) specify the action to be taken before the notice will be withdrawn, and where appropriate, the period within which that action shall be taken,
- (d) inform the master of the vessel of the requirement to confirm compliance with the notice under paragraph (4),
- (e) inform the master of the right to appeal the notice in accordance with Regulation 14,
- (f) state that a failure to comply with the notice is an offence under paragraph (8), and
- (g) be signed and dated by the authorised officer.

(4) The master of a vessel 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 MSO.

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

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

(7) The master of a vessel on whom a notice of detention has been served may appeal the notice in accordance with Regulation 14.

(8) The master of a vessel who fails to comply with a notice of detention served on him or her commits an offence and is liable on summary conviction to a class A fine.

Directions

13. (1) Where the MSO considers that the owner or master of a vessel is failing to comply with these Regulations, the MSO 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 MSO in relation to the direction.

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

(4) The MSO 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 on whom the direction is served,
- (c) specify the action to be taken by the person 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 14,
- (f) state that a failure to comply with the direction is an offence under paragraph (10), and
- (g) be signed and dated by the MSO.

(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 MSO as soon as practicable after so complying.

(8) Where a person confirms compliance under paragraph (7), the MSO 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 14.

(10) A person on whom a direction has been served who fails to comply with the direction commits an offence and is liable on summary conviction to a class A fine.

Appeals

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

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

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

- (a) the notice of detention was served under Regulation 12(2), or
- (b) the direction –

- (i) was served under Regulation 13(1), or
- (ii) was confirmed or modified under Regulation 13(4).

(3) A copy of the notice of appeal shall be given by the person making an appeal to the MSO not less than 48 hours before the hearing of the appeal and the MSO shall be entitled to appear, be heard and adduce evidence on the hearing of the appeal and at the hearing of an 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.

Summary proceedings

15. Proceedings for an offence under these Regulations may be brought and prosecuted summarily by the Minister.



GIVEN under my Official Seal,
13 June, 2023.

EAMON RYAN,
Minister for Transport.

EXPLANATORY NOTE

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

These Regulations provide for the safe manning of fishing vessels of 15 metres in length overall and over. They oblige the owner of every relevant fishing vessel to secure a minimum safe manning document by a certain date and to abide by its provisions thereafter. Until that date, they set out minimum requirements for deck officers and engineer officers to be carried on board each vessel. They also require that a working language be established for operations on board each vessel and prescribe the watchkeeping arrangements that must be in place. They detail the powers of authorised officers to ensure compliance with the Regulations. The Regulations give effect to Article 10 of the Annex to EU Directive 2017/159 regarding manning requirements under the Work in Fishing Convention 2007.

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