



## Marine Notice No. 42 of 2019

*Notice to all Fishing Vessel Owners, Agents, Fishing Vessel Masters and Fishers*

### **Council Directive 2017/159 on the implementation of the social partners' agreement on the ILO Work in Fishing Convention 2007.**

#### **1. Background**

The Work in Fishing Convention, 2007 (C188) was adopted at the 96th session of the International Labour Conference in June 2007. It aims to ensure decent conditions of work in the fishing sector with regard to minimum requirements for work on board fishing vessels; conditions of service; accommodation and food; medical care and health protection; and social security. The Convention entered into force on 16 November 2017 and, so far, 14 Member States of the ILO have ratified it.

On 31 January 2017, Council Directive (EU) 2017/159 was published in the Official Journal of the European Union (OJ No. L 25, 31.1.2017, p.12). This Directive contains a Social Partners' Agreement, concluded on 21 May 2012, which aims to implement the Work in Fishing Convention.

The Convention and Directive were the subject of a stakeholder consultation details of which are contained in [Marine Notice 42 of 2018](#).

#### **2. Objectives of the Directive**

The Directive comprises seven articles and an Annex which sets out the Agreement concerning the implementation of the Convention. The Directive aims to enhance the working and living conditions for fishers working on vessels flying the flag of an EU member state. In particular, the Directive seeks to improve health and safety for fisher's within the EU and establishes a consolidated legal framework suited to working conditions in the commercial fishing sector.

#### **3. Application**

This Directive, applies to all fisher's (including share fishers) working in any capacity under a contract of employment or in an employment relationship on any commercial fishing vessel registered in the State. The Directive also results in additional responsibilities for fishing vessel owners, masters and the national competent authority. The competent authority for the purposes of the Directive is the Marine Survey Office of the Department of Transport, Tourism and Sport.

In some instances, the extent to which the provisions of the Directive apply to fishing vessel owners and masters varies depending on the size of the fishing vessel.

#### **4. Transposition Date**

The Directive is due to be transposed into Irish law by **15 November 2019**. Work is progressing on a package of Regulations in order to transpose the Directive. The purpose of this Marine Notice is to provide information on the main changes which will take effect on 15 November 2019, subject to the finalisation of the draft Regulations.

#### **5. Changes with effect from 15 November 2019**

The following sections provide a brief overview of some of the main changes that will come into effect from 15 November.

##### **Minimum Age**

The minimum age to work on board a fishing vessel is 16. However, a child who is over the age of 14 may perform light work on a fishing vessel during school holidays.

Fishers who are 16 or 17 years of age may perform duties provided that they are no longer subject to compulsory full-time schooling, they have completed a basic pre-sea training course, their mental and physical well-being is fully protected and they have received adequate instruction.

A fisher who is 16 or 17 years of age may be permitted to work at night, if the work forms part of an established training programme.

##### **Medical Examinations**

Fishers on Irish sea-fishing vessels (other than Category C vessels which remain at sea for 72 hours or less, or which are less than 15 metres length overall), will be obliged to have a medical certificate from 15<sup>th</sup> November 2019. Details of the medical assessment scheme will be set out in a subsequent marine notice.

A fishing vessel owner or master shall not employ or continue to employ a fisher on board a sea-fishing vessel to which the Regulations apply, unless the fisher is the holder of a medical fitness certificate that records the fisher as fit to carry out the work for which he or she is to be employed, and that is in force.

To obtain a medical fitness certificate, a person must be medically examined by an approved doctor to ascertain if he or she is fit, having regard to the medical standards and eyesight and hearing standards specified by the Minister for Transport, Tourism and Sport. The list of approved doctors and details of the medical assessment scheme which currently applies to seafarers are available in [Marine Notice 38 of 2014](#). This Marine Notice will be updated to reflect the introduction of a scheme for fishers.

For fishers under the age of eighteen, the medical certificate is valid for a period not exceeding one year. For fishers over the age of eighteen, the medical certificate is valid for a period not exceeding two years.

### **Manning**

Owners of sea-going fishing vessels registered in the State, shall ensure that their vessels are sufficiently and safely manned for the safe navigation and operation of the vessel and under the control of a qualified skipper.

The transposition of the Directive will require some amendments to be made to existing regulations. Most notably, the table contained in S.I. No. 289 of 1988, which sets out the minimum number of qualified deck and other officers to be carried on board the vessel, is being updated to bring fishing vessels of 15 metres length overall (and above) into scope.

### **Safe manning document**

Fishing vessel owners and/or masters of sea-going fishing vessels registered in the State will be required to carry a safe manning document, which specifies the number and qualifications of the fishers required for the safe navigation and operation of the vessel, the protection of the marine environment and appropriate living and working conditions.

It should be noted that the changes being introduced as a result of Council Directive 2017/159 and its subsequent national regulations, do not apply to fishing vessels which have a safe manning document issued by the competent authority under the Merchant Shipping (Safe Manning, Hours of Work and Watchkeeping) Regulations 1998 (S.I. no. 551 of 1998).

### **Hours of Work and Rest**

The transposition of Council Directive 2017/159 will result in some amendments to existing Regulations governing hours of work and rest. The specified limits on hours of work and rest will remain the same, but the Regulations will apply to all fishers, including share-fishers, on sea-going fishing vessels registered in the State.

The specified limits on hours of work and hours of rest are as follows-

Subject to the limit of an average of 48 hours of work a week over a reference period not exceeding 12 months, the limits on hours of work and rest in respect of a worker on board a sea-going fishing vessel shall be either:

- maximum hours of work which shall not exceed 14 hours in any 24-hour period, and 72 hours in any seven-day period; or
- minimum hours of rest which shall not be less than 10 hours in any 24-hour period, and 77 hours in any seven-day period.

### **Crew List**

Every fishing vessel shall carry a crew list, the particulars of which shall be determined by the competent authority. Before or immediately after the departure of the fishing vessel, a copy of the crew list, or specific details of the crew list as determined by the competent authority, shall be communicated ashore, for the purpose of search and rescue and maritime safety.

A subsequent Marine Notice will outline the format to be used for the crew list.

### **Fisher's Work Agreement**

The owner of an Irish sea-fishing vessel, who employs a fisher, shall ensure that an agreement is prepared which provides the fisher with decent work and living conditions. Amongst other things, the Fisher's Work Agreement should include the fisher's family name and other names, date of birth or age, and birthplace; the place at which and date on which the agreement was concluded and the name of the fishing vessel.

A Marine Notice will issue shortly, detailing the format to be used for an agreement and the minimum contents of Fisher's Work Agreement. Annex I of the Directive provides details on the information which should be included in the Fisher's Work Agreement.

### **Logbook**

The Marine Survey Office will be revising the current log book format to take account of the fact that a significant proportion of information, which is currently contained in the log book, will now be contained in the Fisher's Work Agreement.

### **On-board dispute resolution procedure**

A fishing vessel owner or master of a sea-going fishing vessel registered in the State, is responsible for ensuring that a fisher on-board the vessel can make a complaint regarding an alleged breach of the Fisher's Work Agreement. The fishing vessel owner or master is responsible for ensuring that the complaint is resolved in a prompt, fair and effective manner.

### **Duty to repatriate a fisher**

In certain circumstances, it will be the responsibility of the owner of a sea-going fishing vessel registered in the State, to repatriate a fisher from a fishing vessel which enters a port outside the State, or where the fisher is transferred from the fishing vessel to the port outside the State, as soon as is practicable.

Examples of when it is the fishing vessels owners duty to repatriate a fisher include:

- where a Fisher's Work Agreement expires,
- where the fisher has completed the maximum duration of service periods on board, as set out in his or her work agreement,
- where the fisher is no longer able to carry out his or her duties under the Fisher's Work Agreement.

The costs of repatriation shall be borne by a fishing vessel owner, except where the fisher has been found to be in serious default of his or her obligations under the fisher's work agreement.

### **Food and Accommodation**

Sufficient and suitable food and drinking water should be provided to a fisher on board a sea-going fishing vessel registered in the State.

Council Directive 2017/159 details specific requirements for newly constructed or substantially altered crew accommodation. Amongst other things, the requirements relate to, design and construction; noise and vibration; ventilation; heating and air conditioning; lighting; sleeping rooms; mess rooms; and sanitary facilities.

New Regulations will set out the requirements for vessels constructed after 15 November 2017. SI 640/2007 will, for the most part, cover the requirements for new vessels of 15-24m in length, while additional requirements for vessels of 24m in length and over will be set out in the new Regulations.

**Right to seek Medical Attention**

When a fishing vessel registered in the State, is at sea or in a port outside the State, the fishing vessel owner shall permit a fisher to seek medical attention, in the event of serious injury or illness and work-related illness or injury occurring to him or her, where reasonably practicable, without delay.

**Fishing vessel owner duty to make provision for fisher's health protection and medical care**

The fishing vessel owner shall meet any medical care expenses reasonably incurred in connection with the fisher's sickness or injury, while the fisher is aboard the fishing vessel or landed in a port outside the country responsible for the fisher's social security protection. This applies, if a fisher experiences sickness or injury during the lifetime of the Fisher's Work Agreement (or if the sickness or injury resulted from circumstances or events which occurred during the lifetime of the Fisher's Work Agreement).

The fishing vessel owner is not responsible for meeting the fishers medical care expenses if the injury occurred in circumstances other than in the services of the fishing vessel; if the fisher intentionally concealed the sickness or incapacity from the fishing vessel owner when signing the Fisher's Work Agreement or if the fishing vessel owner proves that the injury or sickness was due to wilful misconduct of the fisher.

The fishing vessel owner is only responsible for costs arising which are not covered by existing entitlements to fishers under health and social protection legislation.

**Provision of Financial Security**

A fishing vessel owner may meet their financial responsibilities for work-related, sickness, injury or death through either a system of fishing vessel owners' liability; or compulsory insurance, workers' compensation, or other schemes.

Marine Notices are issued purely for maritime safety and navigation reasons and should not be construed as conferring rights or granting permissions.

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