

Subsidiary Legislation made under s.223A.

MERCHANT SHIPPING (FISHING VESSELS) REGULATIONS 2020**LN.2020/102***Commencement* **12.3.2020**

Transposing –
Directive (EU) 2017/159

ARRANGEMENT OF REGULATIONS.

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FISHING VESSEL ACCOMMODATION

In exercise of the powers conferred on him by section 223A of the Merchant Shipping Act and all other enabling powers, the Minister, for the purpose of transposing into the law of Gibraltar Council Directive (EU) 2017/159 of 19 December 2016 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), has made the following Regulations—

**PART 1
PRELIMINARY**

Title and commencement.

1. These Regulations may be cited as the Merchant Shipping (Fishing Vessels) Regulations 2020 and come into operation on the day of publication.

Interpretation.

2. In these Regulations, unless the context otherwise requires—

“commercial fishing” means all fishing operations with the exception of subsistence fishing and recreational fishing;

“competent authority” means the Minister with responsibility for the maritime services and he may delegate this power to any suitably qualified person;

“consultation” means consultation by the competent authority with the representative organizations of employers and workers concerned, and in particular the representative organizations of fishing vessel owners and fishermen, where they exist;

“fishing operation” means catching, or catching and processing, of fish or other living resources of the sea;

“fishing vessel owner or owner” means the owner of the fishing vessel or any other organization 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 this Agreement, regardless of whether any other organization or person fulfils certain of the duties or responsibilities on behalf of the fishing vessel owner;

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“fisherman” means every person employed or engaged or working in any capacity on board any fishing vessel under the conditions laid down in regulation 3(1) to (3) of these Regulations, but excluding port pilots and shore personnel carrying out work on board a fishing vessel at the quay side;

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

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

“length (L)” shall be taken as 96 per cent of the total length on a waterline at 85 per cent of the least moulded depth measured from the keel line, or as the length from the foreside of the stem to the axis of the rudder stock on that waterline, if that be greater; in vessels designed with rake of keel, the waterline on which this length is measured shall be parallel to the designed waterline;

“length between perpendiculars (LBP)” means the distance between the forward and the after perpendiculars; the forward perpendicular shall be coincident with the foreside of the stem on the waterline on which the length (L) is measured; the after perpendicular shall be coincident with the axis of the rudder stock on that waterline;

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

“recruitment and placement” service means any person, company, institution, agency or other organisation, in the public or the private sector, which is engaged in recruiting fishermen on behalf of, or placing fishermen with, fishing vessel owners;

“private employment agency” means any person, company, institution, agency or other organization in the private sector engaged in employing or engaging fishermen with a view to making them available to fishing vessel owners who assign their tasks and supervise the execution of these tasks.

Scope and application of these Regulations.

3.(1) Except as otherwise provided, these Regulations shall apply to-

- (a) all fishermen working in any capacity under a contract of employment or in an employment relationship on all fishing vessels engaged in commercial fishing;
- (b) all other fishermen who are present on the same vessel with fishermen referred to in paragraph (a) in order to ensure the protection of the overall safety and health.

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(2) In the event of doubt as to whether a vessel is engaged in commercial fishing, the question shall be determined by the competent authority after consultation.

(3) The competent authority may, after consultation, extend the protection provided in these Regulations for fishermen working on vessels of 24 metres in length and over, in whole or in part, to fishermen working on vessels of less than 24 metres in length.

(4) Nothing in these Regulations shall affect any law, award or custom, or any agreement between fishing vessel owners and fishermen, which ensures more favourable conditions to fishermen than those are set out in these Regulations.

(5) If the application of these Regulations raises special problems of a substantial nature in the light of the particular conditions of service of the fisherman or of the fishing vessels' operations concerned, the competent authority may, on objective grounds, after consultation, exclude limited categories of fishermen or fishing vessels from the requirements of these Regulations or from certain of its provisions.

(6) If the competent authority decides to exclude any category of fisherman or fishing vessel under sub-regulation (5), he shall take measures, as appropriate, to extend progressively the requirements under these Regulations to all categories of fishermen or fishing vessels concerned within a maximum period of 5 years since the coming into force of these Regulations.

(7) The application of sub-regulations (5) and (6) shall, under no circumstances constitute grounds for justifying a reduction in the general level of protection of workers in the fields covered under EU law at the time of coming into force of these Regulations.

**PART 2
GENERAL PRINCIPLES**

Responsibilities of the fishing vessel owner, skipper and the fisherman.

4.(1) Every fishing vessel owner shall ensure that the skipper is provided with the necessary resources and facilities to comply with the obligations set out in these Regulations.

(2) For the purpose of ensuring safety of the fishermen on board and the safe operation of the vessel the skippers shall -

- (a) provide such supervision and ensure that, as far as possible, fishermen perform their work in the best conditions of safety and health;
- (b) manage the fishermen in a manner which respects safety and health, including prevention of fatigue;

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- (c) facilitate on-board occupational safety and health awareness training; and
 - (d) ensure compliance with safety of navigation, watch keeping and associated good seamanship standards.
- (3) No skipper shall be constrained by the fishing vessel owner from taking any decision which, in the professional judgement of the skipper, is necessary for-
- (a) the safety of the fishermen on board; or
 - (b) the vessel and its safe navigation and safe operation.
- (4) Every fisherman shall comply with-
- (a) the lawful orders of the skipper; and
 - (b) applicable safety and health measures.

**PART 3
MINIMUM REQUIREMENTS FOR WORK ON FISHING VESSELS**

Minimum age.

5.(1) Except as otherwise provided in sub-regulation (2), the minimum age for work on board a fishing vessel shall be 16 years.

(2) The minimum age for assignment to activities on board fishing vessels, which by their nature or the circumstances in which they are carried out are likely to jeopardize the health, safety, physical, mental or social development, education or morals of young persons, shall not be less than 18 years.

(3) No fisherman under the age of 18 shall be engaged for work at night.

(4) For the purpose of this regulation, 'night' shall cover a period of at least nine hours, starting no later than midnight and ending no earlier than 5 a.m.

Requirement of medical examination.

6.(1) No fishermen shall work on board a fishing vessel without a valid medical certificate attesting to fitness to perform their duties.

(2) The competent authority, after consultation, may grant exemptions from the application of sub-regulation (1) taking into account of –

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- (a) the safety and health of fishermen;
- (b) size of the vessel;
- (c) availability of medical assistance and evacuation;
- (d) duration of the voyage;
- (e) area of operation; and
- (f) type of fishing operation.

(3) The exemptions granted under sub-regulation (2) shall not apply to a fisherman working on a fishing vessel of 24 metres in length and over or which normally remains at sea for more than three days.

(4) Despite sub-regulation (3), in urgent cases, the competent authority may permit a fisherman to work on such a vessel as referred to in that sub-regulation for a period of a limited and specified duration until a medical certificate can be obtained, if the fisherman is in possession of an expired medical certificate of a recent date.

(5) In addition to the minimum requirements set out in sub-regulations (1) to (4) on a fishing vessel of 24 metres in length and over, or on a vessel which normally remains at sea for more than three days-

- (a) the medical certificate of a fisherman shall state, at a minimum, that-
 - (i) the hearing and sight of the fisherman concerned are satisfactory for the fisherman's duties on the vessel, and
 - (ii) the fisherman is not suffering from any medical condition likely to be aggravated by service at sea or to render the fisherman unfit for such service or to endanger the safety or health of other persons on board;
- (b) the medical certificate shall be valid for a maximum period of two years unless the fisherman is under the age of 18, in which case the maximum period of validity shall be one year; and
- (c) if the period of validity of a certificate expires in the course of a voyage, the certificate shall remain in force until the end of that voyage.

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CONDITIONS OF SERVICE

Manning.

7.(1) Every fishing vessel of 24 metres in length and over, shall maintain a minimum level of manning that may be established by the competent authority for the safe navigation of the vessel, specifying the number and the qualifications of the fishermen required.

(2) The competent authority, after consultation, may establish alternative requirements to a minimum level of manning as required by sub-regulation (2) if the following conditions are satisfied-

- (a) alternative requirements are conducive to the full achievement of the general object and purpose of this regulation and regulation 8;
- (b) gives effect to sub-regulation (2); and
- (c) shall not jeopardise the safety and health of the fishermen.

Hours of work and rest.

8.(1) Regulations 5, 6 and 7 of the Fishing Vessels (Working Time) Regulations 2005 shall not apply to fishermen covered by these Regulations.

(2) Every fishing vessel owner shall ensure that fishermen are entitled to adequate rest and that the fishermen's hours of work are limited to 48 hours a week on average, calculated over a reference period not exceeding 12 months.

(3) The competent authority shall, after consultation, take the necessary measures to ensure that, in keeping with the need to protect the safety and health of the fishermen and for the purpose of limiting fatigue-

- (a) the working hours are limited to a maximum number of hours which shall not be exceeded in a given period of time; or
- (b) a minimum number of hours of rest are provided within a given period of time.

(4) The maximum number of hours of work or the minimum hours of rest shall be specified by collective agreements or agreements between the two sides of the industry.

(5) The limits on hours of work or rest shall be either-

- (a) maximum hours of work which shall not exceed-

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- (i) 14 hours in any 24-hour period, and
- (ii) 72 hours in any seven-day period; or
- (b) minimum hours of rest which shall not be less than-
 - (i) 10 hours in any 24-hour period, and
 - (ii) 77 hours in any seven-day period.

(6) Hours of rest may be divided into no more than two periods, one of which shall be at least six hours in length, and the interval between two consecutive periods of rest shall not exceed 14 hours.

(7) Nothing in this regulation shall be deemed to impair the right of the skipper of a vessel to require a fisherman to perform any hours of work necessary for the immediate safety of the vessel, the persons on board or the catch, or for the purpose of giving assistance to other boats or ships or persons in distress at sea.

(8) The skipper may suspend the schedule of hours of rest and require a fisherman to perform any hours of work necessary until the normal situation has been restored.

(9) As soon as practicable after the normal situation has been restored, the skipper shall ensure that any fishermen who have performed work in a scheduled rest period are provided with an adequate period of rest.

Crew list.

9.(1) Every fishing vessel shall carry a crew list, a copy of which shall be provided to authorized persons ashore prior to departure of the vessel, or communicated ashore immediately after departure of the vessel.

(2) The competent authority shall determine to whom and when such information shall be provided and for what purpose or purposes.

Fisherman's work agreement.

10.(1) The competent authority shall, for the fishermen working on the vessel, ensure that every fishing vessel owner maintains the protection of a fisherman's work agreement that –

- (a) is comprehensible to those fishermen;
- (b) is consistent with the provisions of these Regulations; and

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- (c) specifies the minimum particulars to be included in such fisherman's work agreements in accordance with the provisions contained in Schedule 1.
- (2) The competent authority shall ensure that every fishing vessel owner has adopted measures regarding –
- (a) procedures for ensuring that a fisherman has an opportunity to review and seek advice on the terms of the fisherman's work agreement before it is concluded;
 - (b) where applicable, the maintenance of records concerning the fisherman's work under such an agreement; and
 - (c) the means of settling disputes in connection with a fisherman's work agreement.
- (3) Every fishing vessel owner shall ensure that a copy of fisherman's work agreement is-
- (a) provided to the fisherman;
 - (b) carried on board;
 - (c) available to other fishermen and parties concerned on request.
- (4) This regulation and Schedule 1 shall not apply to a fishing vessel owner who is also single-handedly operating the vessel.
- (5) Every fishing vessel owner shall ensure that each fisherman has a written fisherman's work agreement that –
- (a) is signed by all parties to that agreement; and
 - (b) provides the fisherman with decent work and living conditions on board the vessel as required by these Regulations.

Repatriation.

11.(1) The competent authority shall ensure that every fisherman on a fishing vessel that enters a port in another country is entitled to repatriation in the event that-

- (a) the fisherman's work agreement has expired or has been terminated for justified reasons by one or more of the parties to that agreement;
- (b) the fisherman is no longer able to carry out the duties required under the fisherman's work agreement or cannot be expected to carry them out in the specific circumstances; or

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(c) the fisherman is transferred from the vessel to the foreign port for any of the reasons referred to in paragraph (a) or (b).

(2) The cost of the repatriation referred to in sub-regulation (1) shall be borne by the fishing vessel owner, except where the fisherman has been found to be in serious default of his obligations under the fisherman's work agreement.

(3) If a fishing vessel owner fails to provide for the repatriation referred to in this regulation, the competent authority shall-

(a) shall arrange for the repatriation of the fisherman concerned; and

(b) be entitled to recover the cost from the fishing vessel owner.

Private labour market services.

12.(1) This regulation applies without prejudice to the Agency Workers Regulations 2012.

(2) For the purpose of this regulation private labour market services consist of recruitment and placement services in the private sector and the services of private employment agencies.

(3) No private labour market service shall use means, mechanisms or lists intended to prevent fishermen from engaging for work.

(4) No fees or other charges for private labour market service shall be borne directly or indirectly, in whole or in part, by the fisherman.

**PART 5
OCCUPATIONAL SAFETY AND HEALTH**

Food and accommodation.

13.(1) The provisions of this regulation shall be observed with due regard to hygiene and overall safe, healthy and comfortable conditions.

(2) Every fishing vessel owner shall provide sufficient accommodation, food and potable water on board.

(3) The accommodation referred to in sub-regulation (2) shall be of sufficient size and quality and appropriately equipped for the service of the vessel and the length of time fishermen live on board.

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(4) The Minister shall, for the purposes of sub-regulation (2), take measures by Order published in the Gazette or otherwise that shall address, as appropriate, the following matters-

- (a) prior approval of the plan from the competent authority for the construction or modification of fishing vessels in respect of accommodation;
- (b) arrangement for maintenance,
- (c) system of ventilation, heating, cooling and lighting;
- (d) system of mitigation of excessive noise and vibration;
- (e) location, size, construction materials, furnishing and equipping of sleeping rooms, mess rooms and other accommodation spaces;
- (f) sanitary facilities, including toilets and washing facilities, and supply of sufficient hot and cold water; and
- (g) procedures for responding to complaints concerning accommodation that does not meet the requirements of this Agreement.

(5) The owner of every fishing vessel shall ensure that -

- (a) the food carried and served on board be of a sufficient nutritional value, quality and quantity;
- (b) potable water be of sufficient quality and quantity; and
- (c) the food and water shall be provided by the fishing vessel owner at no cost to the fisherman.

(6) The cost referred to in sub-regulation (5)(c) can be recovered as an operational cost if the collective agreement governing a share system or a fisherman's work agreement so provides.

(7) In implementing the provisions of this regulation full effect shall be given to Schedule 2.

Health protection and medical care.

14.(1) It shall be the responsibility of every fishing vessel owner to ensure that a fisherman aboard a fishing vessel-

- (a) has the right to medical treatment ashore and the right to be taken ashore in a timely manner for treatment in the event of serious injury or illness occurring to him;

- (b) shall be provided by him (the fishing vessel owner) with health protection and medical care while the fisherman is-
 - (i) aboard, or
 - (ii) landed in a port outside the country responsible for the fisherman's social security protection; and
 - (c) shall, in the event of work-related illness or injury, have access to appropriate medical care in his country of residence.
- (2) The health protection and medical care referred to in sub-regulation (1)(b) shall-
- (a) be subject to the Gibraltar Merchant Shipping (Medical Stores) Regulations, 2000 and sub-regulation (2) if the fisherman is aboard; and
 - (b) include medical treatment and related material assistance and support during medical treatment if the fisherman is landed in a port outside Gibraltar.
- (3) The quantities of medicinal products and medical equipment to be carried on board a fishing vessel depend on-
- (a) the nature of the voyage - in particular ports of call, destination, duration - the type or types of work to be carried out during the voyage, the nature of the cargo and the number of workers; and
 - (b) the area of operation.
- (4) The management of the medical supplies is placed under the responsibility of the skipper of the fishing vessel and he may, without prejudice to this responsibility, delegate the use and maintenance of the medical supplies to one or more workers specially designated by reason of their competence.
- (5) No responsibility shall be delegated under sub-regulation (4) unless the worker to whom the responsibility is be delegated has) received special training updated periodically, at least every five years, taking into account the specific risks and needs connected with the different categories of vessel.
- (6) The special training of fishermen referred to in sub-regulation (5) shall take into account-
- (a) the number of fishermen aboard;
 - (b) the area of operation; and

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(c) the length of the voyage.

(7) For the purposes of these Regulations, the guides referred to in regulation 10 of the Gibraltar Merchant Shipping (Medical Stores) Regulations, 2000 shall be in a language and format understood by the fishermen trained as required this regulation.

(8) Every fishing vessel owner shall ensure that-

(a) medical consultation is available to his through satellite communication; and

(b) his fishing vessels-

(i) are, for the purpose of obtaining such consultations, equipped for radio or satellite communication; and

(ii) carry a medical guide adopted or approved by the competent authority, or the latest edition of the International Medical Guide for Ships.

Occupational safety and health and accident prevention.

15. It shall be the responsibility of every fishing vessel owner to ensure that following measures are in place in respect of fishing vessels owned by him-

(a) the prevention of occupational accidents, occupational diseases and work-related risks on board fishing vessels owned by him, including risk evaluation and management, training and on-board instruction of fishermen;

(b) training for fishermen in the handling of types of fishing gear they will use and in the knowledge of the fishing operations in which they will be engaged;

(c) the obligations of fishing vessel owners, fishermen and others concerned, due account being given of the safety and health of fishermen under the age of 18; and

(d) reporting and investigation of accidents on board fishing vessels.

General requirements for fishing vessels.

16.(1) The requirements set out in this regulation shall apply to all fishing vessels, taking into account the number of fishermen on board, the area of operation, and the duration of the voyage.

(2) It shall be the duty of the competent authority to ensure-

- (a) after consultation, that every fishing vessel owner has establish on-board procedures for the prevention of occupational accidents, injuries and diseases, taking into account the specific hazards and risks on the fishing vessel concerned; and
 - (b) that every fishing vessel owner, skipper, fisherman, and other relevant persons are provided with sufficient and suitable guidance, training material, or other appropriate information on how to evaluate and manage risks to safety and health on board fishing vessels.
- (3) Every fishing vessel owner shall ensure that every fisherman-
- (a) on board is provided with appropriate personal protective clothing and equipment;
 - (b) on board has received basic safety training approved by the competent authority; and
 - (c) is sufficiently and reasonably familiarised with equipment and its methods of operation, including relevant safety measures, prior to using the equipment or participating in the operations concerned.
- (4) Every fishing vessel owner shall ensure that risk evaluation in relation to fishing is conducted with the participation of fishermen or their representatives as appropriate.

Local Maritime Directions for fishing vessels and fishermen.

17. The competent authority may issue Local Maritime Directions prescribing and detailing-
- (a) the nature of medical examinations;
 - (b) the form and content of medical certificates;
 - (c) the issue of a medical certificate by a duly qualified medical practitioner or, in the case of a certificate solely concerning eyesight, by a person recognized by the competent authority as qualified to issue such a certificate; these persons shall enjoy full independence in exercising their professional judgement;
 - (d) the frequency of medical examinations and the period of validity of medical certificates;
 - (e) the right to another, binding examination by an independent medical practitioner, who has been appointed by the competent authority as referee-

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- (i) in the event that a person has been refused a certificate or has had limitations imposed on the work he may perform;
 - (ii) in the event that a person, during his or her examination, has indicated that he finds himself unfit to perform his duties on board a fishing vessel, but the medical examiner issues a medical certificate nonetheless attesting that the person is medically fit to perform his duties on board a fishing vessel;
 - (iii) in the event that a person has been refused a certificate or has had limitations imposed on the work he may perform, in case the medical reasons for such refusal have disappeared; and
- (f) other relevant requirements.

Offences and penalties.

18.(1) Where a fishing vessel owner fails to comply with any of the requirements imposed on him by these Regulations, that owner commits an offence and is liable on summary conviction to a fine not exceeding level 4 on the standard scale.

(2) Where a skipper fails to comply with any of the requirements imposed on him by these Regulations, that skipper commits an offence and is liable on summary conviction to a fine not exceeding level 3 on the standard scale.

(3) Where a fisherman fails to comply with any of the requirements imposed on him by these Regulations, that fisherman commits an offence and is liable on summary conviction to a fine not exceeding level 2 on the standard scale.

Detention of fishing vessels.

19.(1) Where the Maritime Administrator, any marine surveyor or a health and safety inspector is of the opinion that—

- (a) the requirements of regulation 8 have not been complied with in respect of any worker on a fishing vessel; and
- (b) a hazard to the health or safety of any worker is thereby created,

the fishing vessel may be detained until the worker has had sufficient rest to resume his duties without creating a hazard to the health or safety of any worker.

- (2) The power of detention in this regulation may not be exercised unreasonably.

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SCHEDULE 1

Regulation 10

FISHERMAN'S WORK AGREEMENT

The fisherman's work agreement shall contain the following particulars, except in so far as the inclusion of one or more of them is rendered unnecessary by the fact that the matter is regulated in another manner by national laws or regulations or a collective bargaining agreement where applicable-

- (a) the fisherman's family name and other names, date of birth or age, and birthplace;
- (b) the place at which and date on which the agreement was concluded;
- (c) 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;
- (d) the name of the employer, or fishing vessel owner, or other party to the agreement with the fisherman;
- (e) the voyage or voyages to be undertaken, if this can be determined at the time of making the agreement;
- (f) the capacity in which the fisherman is to be employed or engaged;
- (g) if possible, the place at which and date on which the fisherman is required to report on board for service;
- (h) the provisions to be supplied to the fisherman, unless some alternative system is provided for by national law or regulation;
- (i) 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;
- (j) the termination of the agreement and the conditions thereof, namely:
 - (i) if the agreement has been made for a definite period, the date fixed for its expiry;

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- (ii) 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;
- (iii) 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;
- (k) the amount of paid annual leave or the formula used for calculating leave, where applicable;
- (l) 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 fisherman's work agreement, as applicable;
- (m) the fisherman's entitlement to repatriation;
- (n) a reference to the collective bargaining agreement, where applicable;
- (o) the minimum periods of rest, in accordance with national laws, regulations or other measures; and
- (p) any other particulars which national law or regulation may require.

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SCHEDULE 2

Regulation 13(7)

FISHING VESSEL ACCOMMODATION

A. GENERAL PROVISIONS

1. This Schedule applies without prejudice to the Gibraltar Merchant Shipping (Medical Stores) Regulations, 2000.

2. For the purposes of this Schedule-

Agreement means, Agreement concluded by 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) of 21 May 2012 concerning the implementation of the Work in Fishing Convention, 2007 of the International Labour Organization;

new fishing vessel means, a vessel for which-

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

existing vessel means, a vessel that is not a new fishing vessel.

3. The following shall apply to all new, decked fishing vessels, subject to any exclusions provided for in accordance with Article 3 of the Agreement. The competent authority may,

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after consultation, also apply the requirements of this Schedule to existing vessels, when and in so far as it determines that this is reasonable and practicable.

4. The competent authority, after consultation, may permit variations to the provisions of this Schedule for fishing vessels normally remaining at sea for less than 24 hours where the fishermen do not live on board the vessel in port. In the case of such vessels, the competent authority shall ensure that the fishermen concerned have adequate facilities for resting, eating and sanitation purposes.

5. The requirements for vessels of 24 metres in length and over may be applied to vessels between 15 and 24 metres in length where the competent authority determines, after consultation, that this is reasonable and practicable.

6. Fishermen working on board feeder vessels which do not have appropriate accommodation and sanitary facilities shall be provided with such accommodation and facilities on board the mother vessel.

7. The competent authority may extend the requirements of this Schedule regarding noise and vibration, ventilation, heating and air conditioning, and lighting to enclosed working spaces and spaces used for storage if, after consultation, such application is considered appropriate and will not have a negative influence on the function of the process or working conditions or the quality of the catches.

B. PLANNING AND CONTROL

8. The competent authority shall satisfy itself that, on every occasion when a vessel is newly constructed or the crew accommodation of a vessel has been reconstructed, such vessel complies with the requirements of this Schedule. The competent authority shall, to the extent practicable, require compliance with this Schedule when the crew accommodation of a vessel is substantially altered and, for a vessel that changes the flag it flies, require compliance with those requirements of this Schedule that are applicable in accordance with paragraph 3.

9. For the occasions noted in paragraph 8, for vessels of 24 metres in length and over, detailed plans and information concerning accommodation shall be required to be submitted for approval to the competent authority, or an entity authorized by it.

10. For vessels of 24 metres in length and over, on every occasion when the crew accommodation of the fishing vessel has been reconstructed or substantially altered, the competent authority shall inspect the accommodation for compliance with the requirements of the Agreement, and when the vessel changes the flag it flies, for compliance with those requirements of this Schedule that are applicable in accordance with paragraph 3. The competent authority may carry out additional inspections of crew accommodation at its discretion.

11. When a vessel changes flag to a Member State flag or is registered under a Member State's plenary jurisdiction, any alternative requirements which the competent authority of a non-EU Member State whose flag the ship was formerly flying, may have adopted in accordance with paragraphs 15, 39, 47 or 62 of Schedule III to C188, cease to apply to the vessel.

C. DESIGN AND CONSTRUCTION

12. There shall be adequate headroom in all accommodation spaces. For spaces where fishermen are expected to stand for prolonged periods, the minimum headroom shall be prescribed by the competent authority.

13. For vessels of 24 metres in length and over, 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

14. There shall be no direct openings into sleeping rooms from fish rooms and machinery spaces, except for the purpose of emergency escape. Where reasonable and practicable, direct openings from galleys, storerooms, drying rooms or communal sanitary areas shall be avoided unless expressly provided otherwise.

15. For vessels of 24 metres in length and over, there shall be no direct openings, except for the purpose of emergency escape, into sleeping rooms from fish rooms and machinery spaces or from galleys, storerooms, drying rooms or communal sanitary areas; 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. This provision does not exclude the possibility of sanitary areas being shared between two cabins.

Insulation

16. Accommodation spaces shall be adequately insulated; the materials used to construct internal bulkheads, panelling and sheeting, and floors and joints shall be suitable for the purpose and shall be conducive to ensuring a healthy environment. Sufficient drainage shall be provided in all accommodation spaces.

17. All practicable measures shall be taken to protect fishing vessels' crew accommodation against flies and other insects, particularly when vessels are operating in mosquito-infested areas.

18. Emergency escapes from all crew accommodation spaces shall be provided as necessary.

D. NOISE AND VIBRATION

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19. Paragraph 20 applies without prejudice to Directive 2003/10/EC and Directive 2002/44/EC.

20. The competent authority shall adopt standards for noise and vibration in accommodation spaces which shall ensure adequate protection to fishermen from the effects of such noise and vibration, including the effects of noise- and vibration-induced fatigue.

E. VENTILATION

21. Accommodation spaces shall be ventilated, taking into account climatic conditions. The system of ventilation shall constantly supply fresh air in a satisfactory condition whenever fishermen are on board.

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

23. Vessels of 24 metres in length and over shall be equipped with a system of ventilation for accommodation, 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. Ventilation systems shall be in operation at all times when fishermen are on board.

F. HEATING AND AIR CONDITIONING

24. Accommodation spaces shall be adequately heated, taking into account climatic conditions.

25. For vessels of 24 metres in length and over, adequate heat shall be provided, through an appropriate heating system, except in fishing vessels operating exclusively in tropical climates. The system of heating 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.

26. For vessels of 24 metres in length and over, with the exception of those regularly engaged in areas where temperate climatic conditions do not require it, air conditioning shall be provided in accommodation spaces, the bridge, the radio room and any centralized machinery control room.

G. LIGHTING

27. All accommodation spaces shall be provided with adequate light.

28. Wherever practicable, accommodation spaces shall be lit with natural light in addition to artificial light. Where sleeping spaces have natural light, a means of blocking the light shall be provided.

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

30. Emergency lighting shall be provided in sleeping rooms.

31. Where a 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.

32. For vessels of 24 metres in length and over, lighting in accommodation spaces shall meet a standard established by the competent authority. In any part of the accommodation space available for free movement, the minimum standard for such lighting shall be such as to permit a person with normal vision to read an ordinary printed newspaper on a clear day.

H. SLEEPING ROOMS

General

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

Floor area

34. The number of persons per sleeping room and the floor area per person, excluding space occupied by berths and lockers, shall be such as to provide adequate space and comfort for the fishermen on board, taking into account the service of the vessel.

35. 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.

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

Persons per sleeping room

37. To the extent not expressly provided otherwise, the number of persons allowed to occupy each sleeping room shall not be more than six.

38. For vessels of 24 metres in length and over, the number of persons allowed to occupy each sleeping room shall not be more than four. The competent authority may permit exceptions to this requirement in particular cases if the size, type or intended service of the vessel makes the requirement unreasonable or impracticable.

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39. To the extent not expressly provided otherwise, a separate sleeping room or sleeping rooms shall be provided for officers, wherever practicable.

40. For vessels of 24 metres in length and over, sleeping rooms for officers shall be for one person wherever possible and in no case shall the sleeping room contain more than two berths. The competent authority may permit exceptions to the requirements of this paragraph in particular cases if the size, type or intended service of the vessel makes the requirements unreasonable or impracticable.

Other

41. 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.

42. Individual berths of appropriate dimensions shall be provided. Mattresses shall be of a suitable material. Local lighting shall be provided in each berth.

43. For vessels of 24 metres in length and over, the minimum inside dimensions of the berths shall not be less than 198 by 80 centimetres.

44. Sleeping rooms shall be so planned and equipped as to ensure reasonable comfort for the occupants and to facilitate tidiness. Equipment provided shall include berths, individual lockers sufficient for clothing and other personal effects, and a suitable writing surface.

45. For vessels of 24 metres in length and over, a desk suitable for writing, with a chair, shall be provided.

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

I. MESS ROOMS

47. Mess rooms shall be as close as possible to the galley, but in no case shall be located forward of the collision bulkhead.

48. Vessels shall be provided with mess room accommodation suitable for their service. To the extent not expressly provided otherwise, mess room accommodation shall be separate from sleeping quarters, where practicable.

49. For vessels of 24 metres in length and over, mess room accommodation shall be separate from sleeping quarters.

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

51. For vessels with a length between perpendiculars (LBP) of 15 metres or over, a refrigerator of sufficient capacity and facilities for making hot and cold drinks shall be available and accessible to fishermen at all times.

J. TUBS OR SHOWERS, TOILETS AND WASHBASINS

52. 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. These facilities shall meet at least minimum standards of health and hygiene and reasonable standards of quality.

53. The sanitary accommodation shall be such as to eliminate contamination of other spaces. The sanitary facilities shall allow for reasonable privacy.

54. 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. The competent authority may establish, after consultation, the minimum amount of water to be provided.

55. Where sanitary facilities are provided, they shall be fitted with ventilation to the open air, independent of any other part of the accommodation.

56. All surfaces in sanitary accommodation shall be such as to facilitate easy and effective cleaning. Floors shall have a non-slip deck covering.

57. On vessels of 24 metres in length and over, 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.

K. LAUNDRY FACILITIES

58. Amenities for washing and drying clothes shall be provided as necessary, taking into account the service of the vessel, to the extent not expressly provided otherwise.

59. For vessels of 24 metres in length and over, adequate facilities for washing, drying and ironing clothes shall be provided.

60. 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.

L. FACILITIES FOR SICK AND INJURED FISHERMEN

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61. In addition to the requirements of the Gibraltar Merchant Shipping (Medical Stores) Regulations, 2000 a cabin shall be made available for a fisherman who suffers from illness or injury whenever necessary.

62. Instead of the requirement laid down in Article 2, paragraph 3, of Directive 92/29/EEC the following applies: On vessels over 500 gross registered tonnes (GRT) on which 15 or more fishermen are engaged on a voyage of more than three days, and on fishing vessels of 45metres in length or over, regardless of crew size and duration of voyage, there shall be a separate sick bay in which medical treatment can be administered. The space shall be properly equipped and shall be maintained in a hygienic state.

M. OTHER FACILITIES

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

N. BEDDING, MESS UTENSILS AND MISCELLANEOUS PROVISIONS

64. Appropriate eating utensils, and bedding and other linen shall be provided to all fishermen on board. However, the cost of the linen can be recovered as an operational cost if the collective agreement or the fisherman's work agreement so provides.

O. RECREATIONAL FACILITIES

65. For vessels of 24 metres in length and over, appropriate recreational facilities, amenities and services shall be provided for all fishermen on board. Where appropriate, mess rooms may be used for recreational activities.

P. COMMUNICATION FACILITIES

66. All fishermen 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 fishing vessel owner.

Q. GALLEY AND FOOD STORAGE FACILITIES

67. Cooking equipment shall be provided on board. To the extent not expressly provided otherwise, this equipment shall be fitted, where practicable, in a separate galley.

68. The galley, or cooking area where a separate galley is not provided, shall be of adequate size for the purpose, well-lit and ventilated, and properly equipped and maintained.

69. For vessels of 24 metres in length and over, there shall be a separate galley.

70. The 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.

71. A suitable place for provisions of adequate capacity shall be provided which can be kept dry, cool and well ventilated in order to avoid deterioration of the stores and, to the extent not expressly provided otherwise, refrigerators or other low temperature storage shall be used, where possible.

72. For vessels with a length between perpendiculars (LBP) of 15 metres or over, a provisions storeroom and refrigerator and other low-temperature storage shall be used.

R. FOOD AND POTABLE WATER

73. Food and potable water shall be sufficient, having regard to the number of fishermen, and the duration and nature of the voyage. In addition, they shall be suitable in respect of nutritional value, quality, quantity and variety, having regard as well to the fishermen's religious requirements and cultural practices in relation to food.

74. The competent authority may establish requirements for the minimum standards and quantity of food and water to be carried on board.

S. CLEAN AND HABITABLE CONDITIONS

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

76. Galley and food storage facilities shall be maintained in a hygienic condition.

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

T. INSPECTIONS BY THE SKIPPER OR UNDER THE AUTHORITY OF THE SKIPPER

78.(a) For vessels of 24 metres in length and over, the competent authority shall require frequent inspections to be carried out, by or under the authority of the skipper, to ensure that:

- (i) accommodation is clean, decently habitable and safe, and is maintained in a good state of repair;
- (ii) food and water supplies are sufficient; and

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(iii) galley and food storage spaces and equipment are hygienic and in a proper state of repair.

(b) The results of such inspections, and the actions taken to address any deficiencies found, shall be recorded and available for review.

U. VARIATIONS

79. The competent authority, after consultation, may permit derogations from the provisions in this Schedule to take into account, without discrimination, the interests of fishermen having differing and distinctive religious and social practices, on condition that such derogations do not result in overall conditions less favourable than those which would result from the application of this Schedule.