

STATUTORY INSTRUMENTS

2017 No. 943

The Fishing Vessels (Codes of Practice) Regulations 2017

PART 5

Supplementary provisions

Equivalent provisions

17.—(1) Where the applicable Code of Practice requires that a particular fitting, material, appliance or apparatus or type must be fitted or carried in a vessel, or that particular provisions must be made as respects a vessel, the Secretary of State may permit any other fitting, material, appliance or apparatus or type to be fitted or carried in the vessel or any other provision to be made as respects the vessel, if the Secretary of State is satisfied that such other fitting, material, appliance or apparatus, type or provision is at least as effective for the purpose for which the requirements in the applicable Code of Practice are set.

(2) For the purposes of the applicable Code of Practice, the Secretary of State must accept a fitting, material, appliance, apparatus, type or provision as being at least as effective as the fitting, material, appliance, apparatus, type or provision required by the applicable Code of Practice if it is verified as such—

- (a) in accordance with the applicable Code of Practice or with a Code of Practice, specification or technical description of an EEA State^{F1}... offering equivalent levels of safety, suitability and fitness for the purpose; and
- (b) by a body or laboratory of an EEA State^{F1}... offering suitable and satisfactory guarantees of technical and professional competence and independence.

Textual Amendments

- F1** Words in [reg. 17\(2\)\(a\)\(b\)](#) omitted (31.12.2020) by virtue of [The Merchant Shipping \(Miscellaneous Provisions\) \(Amendments etc.\) \(EU Exit\) Regulations 2018 \(S.I. 2018/1221\)](#), [reg. 2\(b\)](#), [Sch. para. 28](#); 2020 c. 1, Sch. 5 para. 1(1)

Exemptions

18.—(1) The Secretary of State may grant an exemption from compliance with an applicable Code of Practice or any provision of such a Code.

(2) An exemption may relate to a particular fishing vessel to which that Code of Practice is applicable, or to any class of such vessel.

(3) An exemption may be granted under paragraph (1) only if—

- (a) the Secretary of State is satisfied that compliance with the applicable Code of Practice or provision, as the case may be, is impractical or unreasonable as regards that vessel or class of vessel, and

- (b) the exemption is subject to such conditions and limitations as will provide a level of safety which is at least equal to that provided by the applicable Code of Practice or provision in question.
- (4) An exemption granted under paragraph (1) is valid only if—
 - (a) it is in writing,
 - (b) it specifies the date on which it takes effect, and
 - (c) it specifies the conditions and limitations to which it is subject.
- (5) The Secretary of State may alter or cancel any exemption granted under paragraph (1).
- (6) An alteration or cancellation under paragraph (5) is valid only if—
 - (a) it is in writing,
 - (b) it specifies the date on which it takes effect, and
 - (c) there is a reasonable period between the issue of the alteration or cancellation and that date.

Revocation

19. The statutory instruments listed in the Schedule are revoked.

Transitional provisions

20.—(1) Notwithstanding the revocation by these Regulations of the Fishing Vessels (Safety Provisions) Rules 1975^{M1}, a certificate issued pursuant to those Rules is to be treated as a certificate of compliance issued under these Regulations and remains valid for such period and subject to such conditions as may be specified in that certificate.

(2) Regulation 5 (prohibition on proceeding on any voyage without a certificate) does not apply to a small fishing vessel until —

- (a) the fifth anniversary of its last inspection before these Regulations come into force, or
- (b) the date of the renewal of its registration pursuant to regulation 36 of the Merchant Shipping (Registration of Ships) Regulations 1993 (registration and refusal of registration of a ship)^{M2},

whichever is the sooner.

Marginal Citations

M1 S.I. 1975/330.

M2 S.I. 1993/3138, to which there are amendments not relevant to these Regulations.

Review

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

- (a) carry out a review of the regulatory provision contained in these Regulations, and
- (b) publish a report setting out the conclusions of the review.

(2) The first report must be published before 23rd October 2022.

(3) Subsequent reports must be published at intervals not exceeding five years.

(4) Section 30(3) of the Small Business, Enterprise and Employment Act 2015^{M3} requires that a review carried out under this regulation must, so far as is reasonable, have regard to how the fishing safety Directives are implemented in other member States.

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

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

- (a) set out the objectives intended to be achieved by the regulatory provision referred to in paragraph (1)(a),
- (b) assess the extent to which those objectives are achieved,
- (c) assess whether those objectives remain appropriate, and
- (d) if those objectives remain appropriate, assess the extent to which they could be achieved in another way which involves less onerous regulatory provision.

(7) In this regulation—

“fishing safety Directives” means—

Council Directive [93/103/EC](#) of 23rd November 1993 concerning the minimum safety and health requirements for work on board fishing vessels (thirteenth individual Directive within the meaning of Article 16(1) of Directive [89/391/EEC](#)) ^{M4};

Council Directive [97/70/EC](#) of 11th December 1997 setting up a harmonised safety regime for fishing vessels of 24 metres in length and over ^{M5}; and

Directive [2007/30/EC](#) of the European Parliament and of the Council of 20th June 2007 amending Council Directive [89/391/EEC](#), its individual Directives and Council Directives [83/477/EEC](#), [91/383/EEC](#), [92/29/EEC](#) and [94/33/EC](#) with a view to simplifying and rationalising the reports on practical implementation ^{M6}; and

“regulatory provision” has the same meaning as in sections 28 to 32 of the Small Business, Enterprise and Employment Act 2015 (see section 32 of that Act).

Marginal Citations

M3 2015 c.26. section 30(3) was amended by the [Enterprise Act 2016 \(c.12\)](#), [section 19](#).

M4 OJ L307, 13.12.1993 p. 0001-0017.

M5 OJ L034, 09.02.1998 p.0001-0029.

M6 OJ L165/21, 27.6.2007.

Changes to legislation:

There are currently no known outstanding effects for the The Fishing Vessels (Codes of Practice) Regulations 2017, PART 5.