

**EXPLANATORY MEMORANDUM TO**  
**THE FISHING VESSELS (CODES OF PRACTICE) REGULATIONS 2017**  
**2017 No. 943**

**1. Introduction**

- 1.1 This explanatory memorandum has been prepared by the Department for Transport and is laid before Parliament by Command of Her Majesty.

**2. Purpose of the instrument**

- 2.1 Fishing is a dangerous industry and investigations into accidents on fishing vessels have identified a number of areas where safety standards can be improved. These Regulations update, consolidate and recast 17 sets of existing Rules and Regulations, and enact three Codes of Practice for the construction and safe operation of fishing vessels.

**3. Matters of special interest to Parliament**

*Matters of special interest to the Joint Committee on Statutory Instruments*

- 3.1 None.

*Other matters of interest to the House of Commons*

- 3.2 As this instrument is subject to negative resolution procedure and has not been prayed against, consideration as to whether there are other matters of interest to the House of Commons does not arise at this stage.

**4. Legislative Context**

- 4.1 The Regulations revoke the following legislation but retain the necessary effect contained in them:
- SI 1975 No. 330, the Fishing Vessels (Safety Provisions) Rules 1975, as amended;
  - SI 1988 No.38, the Fishing Vessels (Life-Saving Appliances) Regulations 1998, as amended;
  - SI 1999 No. 2998, the Fishing Vessels (EC Directive on Harmonised Safety Regime) Regulations 1999, as amended;
  - SI 2001/9, the Fishing Vessels (Code of Practice for the Safety of Small Fishing Vessels) Regulations 2001, as amended; and
  - SI 2002/2201, the Fishing Vessels (Safety of 15-24 Metre Vessels) Regulations 2002
- 4.2 EC Directive 97/70 setting up a harmonised safety regime for fishing vessels of 24 metres in length and over was implemented in the UK by the Fishing Vessels (EC Directive on Harmonised Safety Regime) Regulations 1999 and EC Directive 93/103 concerning the minimum safety and health requirements for work on board fishing vessels was partly implemented by an amendment to the Fishing Vessels (Safety

Provisions) Rules 1975 and the Code of Practice required by the Fishing Vessels (Safety of 15-24 Metre Vessels) Regulations 2002.

- 4.3 The Code of Practice for the Construction and Use of Fishing Vessels of 15m Length Overall to less than 24m Registered Length and the Code of Practice for the Construction and Use of Fishing Vessels of 24m Registered Length and Over reproduce the existing requirements without amendment and do not introduce any new EC requirements.
- 4.4 On 23rd June 2016, the EU referendum took place and the people of the United Kingdom voted to leave the European Union. During this period the Government will continue to negotiate, implement and apply EU legislation.

## **5. Extent and Territorial Application**

- 5.1 The extent of this instrument is the United Kingdom.
- 5.2 The territorial application of this instrument is all United Kingdom fishing vessels whether in the United Kingdom or anywhere else in the world. It also applies to non-United Kingdom fishing vessels of 15 metres length or more when those vessels are in UK waters.

## **6. European Convention on Human Rights**

- 6.1 As the instrument is subject to negative resolution procedure and does not amend primary legislation, no statement is required.

## **7. Policy background**

### *What is being done and why*

- 7.1 Fishing is the most dangerous industry in the United Kingdom. Marine Accident Investigation Branch (“MAIB”) investigations have resulted in a number of recommendations that can only be addressed through mandatory Codes of Practice. In addition, since the development of the existing requirements for vessels of 24m and over, after discussion and agreement with industry a number of areas have been identified where safety standards on these vessels can be improved. The Maritime and Coastguard Agency (“MCA”) has considered addressing these safety concerns by two different approaches: a regulatory approach and an educational approach. The current rate of incidents and the findings of the MAIB reports suggest that neither approach is suitable on its own and both need to be run concurrently.
- 7.2 Many vessels do not carry safety equipment beyond what is required by law. Therefore, only a regulatory approach will ensure that vessels carry safety equipment identified by the MAIB as necessary to prevent similar incidents to those they have investigated. MCA surveys and inspections also often identify deficiencies in the equipment that is carried. Therefore, the MCA considers it necessary to make new mandatory requirements in respect of such equipment, set out in the three proposed Codes of Practice, in order to bring about an improvement in safety. In addition, new safety courses are in place, currently on a voluntary basis (and which will be subject to a separate proposal to make them mandatory), to ensure that fishermen are aware of how to use the equipment and respond to situations effectively.
- 7.3 The revision of the Code of Practice for the Safety of Small Fishing Vessels of less than 15m Length Overall is intended to address issues identified in recent MAIB

reports into incidents on vessels of that size, such as the carriage of liferafts, bilge alarms, Emergency Position Indicator Radio Beacons (EPIRB), Personal Locator Beacons (PLB), Carbon Monoxide (CO) alarms, Emergency Drills and dangerous modifications to vessels.

- 7.4 In addition, industry has advised that larger vessels of 15m and over are increasingly being manned by foreign crew who live on board the vessel, and that crew may also live on board as the vessel moves between ports. In the light of the MAIB investigation into the VISION II, in which 3 crew died when the vessel caught fire whilst in port, the 15-24m and 24m and Over Codes require that vessels which have crew living on board must have safety systems operable from shore power.
- 7.5 The EU has required member States to implement the International Maritime Organisation Torremolinos Protocol 1993, which applies to vessels of 24m and over, through Council Directive 97/70/EC setting up a harmonised safety regime for fishing vessels of 24 metres in length and over. The Protocol and Council Directive 97/70 have already been implemented in the UK through SI 1999 No. 2998, the Fishing Vessels (EC Directive on Harmonised Safety Regime) Regulations. However, this Directive was implementing requirements developed in the 1990s.
- 7.6 The Fishing Industry Safety Group (FISG), which comprises members of the UK's main fishing Federations and representatives of the Fish Producers Organisations, considered that the Code needed to reflect improvements in fishing safety since the 1990s. As a result, additional requirements regarding lightning protection, emergency lighting to emergency exits, bilge alarms, shut offs for exhaust fans, heaving lines and lifebuoys, and thermometers are also being proposed.

### ***Consolidation***

- 7.9 The Regulations, and the three Codes of Practice, consolidate the requirements of 17 existing statutory instruments and the 1993 Protocol as identified under the Red Tape Challenge initiative.
- 7.10 The introduction of this instrument will also allow for sections 121 to 127 of the Merchant Shipping Act 1995 to be repealed. This will be considered when Parliamentary time allows.

## **8. Consultation outcome**

- 8.1 Responses to the twelve week consultation showed broad support for the new requirements. The requirement for small fishing vessels to carry an EPIRB was the main area of concern. Consultees felt that smaller vessels or those operating from beaches or tidal harbours would have problems with mandatory carriage of EPIRB due to possible theft or malicious activation.
- 8.2 Following a further meeting with industry representatives, the MCA agreed that fishing vessels of 10m or over would be required to carry EPIRB; owners of 7m to 10m fishing vessels may choose between an EPIRB or Personal Locator Beacons for all crew and fishing vessels below 7m will require all crew to wear PLB.
- 8.3 Consultees also requested that items, such as EPIRB, which are battery operated and require servicing may instead be replaced rather than serviced. This has been taken account of in the Codes of Practice.

8.4 Concern was also raised over the implementation period. In addition, the MCA is aware that with a 5 year inspection period for vessels under 15m, vessels might not comply with the Code until they were due an inspection. Therefore, the MCA agreed a two year phase-in period for EPRIB, PLB and liferafts (for vessels on which liferafts are not already mandatory). This will allow vessel owners to apply for grant funding to assist in the purchase of these items of equipment, thereby reducing the costs to Industry and encourage owners to comply in advance of any inspection to avoid a full cost purchase after the phase-in period ends.

## **9. Guidance**

9.1 The Regulations refer to three Merchant Shipping Notices which contain the technical information for the construction and safe operation of fishing vessels. These are:

- Merchant Shipping Notice (MSN) 1871(F) – Code of Practice for the Safety of Fishing Vessels of less than 15m Length Overall;
- Merchant Shipping Notice (MSN) 1872 (F) – Code of Practice for the Construction and Use of Fishing Vessels of 15m Length Overall to less than 24m Registered Length; and
- Merchant Shipping Notice (MSN) 1873 (F) – Code of Practice for the Construction and Use of Fishing Vessels of 24m Registered Length and Over.

9.2 These Merchant Shipping Notices are available on the Maritime and Coastguard Agency's website. Hard copies can also be obtained from the Maritime and Coastguard Agency.

## **10. Impact**

10.1 The impact on business is expected to be £10.2 million in increased safety requirements. No impact is expected on charities or voluntary bodies.

10.2 There is no impact on the public sector.

10.3 An Impact Assessment is submitted with this memorandum and will be published alongside the Explanatory Memorandum on the [legislation.gov.uk](http://legislation.gov.uk) website.

## **11. Regulating small business**

11.1 The legislation applies to activities that are undertaken by small businesses.

11.2 To minimise the impact on small businesses (employing up to 50 people), the Codes of Practice have been developed in sub-groups of the Fishing Industry Safety Group using the advice of representatives from the relevant sectors of industry. This ensures that a fishing vessel is not required to have equipment that is inappropriate or impractical for its size.

11.3 In addition, a two year phase-in period enables industry to apply to the European Maritime Fisheries Fund to assist with the purchase of EPIRB, Personal Locator Beacons and Liferafts, which would not be permissible if the requirements became mandatory immediately.

## **12. Monitoring & review**

12.1 The Regulations contain a statutory review clause requiring the Secretary of State to review the operation of the Regulations five years after they come into force and at five yearly intervals.

12.2 In consultation with the Fishing Industry Safety Group, the Maritime and Coastguard Agency will continue to review the requirements in the three Codes of Practice.

**13. Contact**

13.1 David Fenner at the Maritime and Coastguard Agency Telephone: 0203 81 72454 or email: David.Fenner@mcga.gov.uk can answer any queries regarding the instrument.