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*The Circular should be entered into a special diagram or as appropriate in the latest editions of relevant NMA publications and kept until the next editions.*

## Amendments to the Regulations on hours of work and rest on board fishing vessels

### 1. Introduction

The Norwegian Maritime Authority (NMA) has laid down Regulation concerning amendments to the Regulations of 10 November 2017 No. 1758 on hours of work and rest on board fishing vessels.

The EU has adopted Directive (EU) 2017/159 of 19 December 2016 concerning the implementation of the Agreement between the General Confederation of Agricultural Cooperatives in the European Union (COGEA), the European Transport Workers' Federation (ETF) and the Association of National Organisations of Fishing Enterprises (EUROPÊCHE) of 21 May 2012 on the implementation of the ILO Convention from 2007 concerning work in the fishing sector.

On 11 June 2021 the Directive was incorporated into the EEA Agreement XVIII, with entry into force 12 June 2021.

### 2. Consultation

A proposal for amendments to the Regulations on hours of work and rest on board fishing vessels was circulated for comments from 19 November until 7 December 2020 after it became clear that the legal act could be incorporated in the EEA Agreement 11 December. Since the amendments to the Regulations are not material, a short response time was considered necessary and sufficient.

The NMA received a total of 6 consultative statements, whereof one included comments to the proposal. This is described in detail in the third section.

### 3. Details on the legislation

In the EU, the parties in the fishing sector have agreed upon an agreement which will make most of the ILO Convention concerning work in the fishing sector (ILO 188) binding for EU Member States. The agreement has been implemented in Directive (EU) 2017/159 with deadline for implementation in the EU on 15 November 2019.

ILO 188 regulates minimum requirements for employees and other parties in the fishing industry. The Convention provides rules concerning health, the environment and safety, in addition to contractual conditions connected to work agreements, salary and payment etc. Furthermore, the Convention sets out requirements for authorities regarding supervision, inspection and enforcement. ILO 188 was,

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with adaptation to the current EU legislation, implemented in Norwegian legislation in 2017, by the new Regulations on hours of work and rest on board fishing vessels and other amendments. For more information on the implementation of ILO 188 in Norwegian legislation, see the NMA's Circular RSR 11-2017, which can be found on our website. The incorporation of Directive 2017/159 into the EEA Agreement has therefore not required changes to existing legislation.

Article 11 of the agreement which is an annex to and is implemented in Directive 2017/159, however, establishes that fishermen covered under this agreement will no longer be subject to a number of provisions in Directive 2003/88/EC, which is the general EU Working Time Directive. We have reached the conclusion that for fishermen on Norwegian fishing vessels that are subject to the Regulations on hours of work and rest on board fishing vessels, Directive 2003/88 is replaced by Directive 2017/159 when it comes to the provisions on hours of work and rest. This means that some minor corrections are needed in the Regulations where the current reference is to Directive 2003/88/EC.

Sections 3 and 7 of the Regulations on hours of work and rest on board fishing vessels allow exemptions in a collective agreement or by application to the NMA for some of the requirements of the Regulations. Such exemptions may not be agreed or granted if they do not comply with Norway's international commitments, including Directive 2003/88.

The NMA proposed that the reference to Directive 2003/88 should be replaced with a reference to Directive 2017/159 in these provisions. As commented by the Norwegian Bar Association, Directive 2003/88 will, however, still have a scope within the scope of application of the Regulations. This applies to section 7 of the Regulations, which refers back and applies to the entire Regulations, including for example section 5 on medical examination for persons performing night work, which is regulated by Directive 2003/88 Article 9. Since only Articles 3-6, 8 and 21 of Directive 2003/88 are replaced by Article 11 of the Agreement which is an annex to and implemented in Directive 2017/159, the NMA agrees that section 7 of the Regulations should still refer to Directive 2003/88, in addition to Directive 2017/159.

For section 3, the relevant provisions on hours of work and rest of 2003/88 no longer apply to employees covered by the Regulations, and this reference is therefore changed from Directive 2003/88 to Directive 2017/159.

In the opinion of the NMA, the amendments do not change the reality. They do, however change the legal basis of the material provisions laid down in the Regulations on hours of work and rest on board fishing vessels.

#### **4. Economic and administrative consequences of the proposal**

In the opinion of the NMA, the proposed amendments will have no financial or administrative consequences for the industry or the authorities.

Lars Alvestad  
Acting Director General of Shipping and Navigation

Linda Bruås  
Acting Head of Department

*This document has been electronically approved, and therefore does not contain handwritten signatures.*