

Circular - Series R

Circular Series R (Regulations) supersedes previous Series F. In the new Series R, relevant legal amendments and amendments to conventions are also published.

Circular recipients: (check box)

- Sdir: Norwegian Maritime Authority
- A: 16 specially authorised employment offices
- U: Selected Foreign Service stations
- P: Equipment manufacturers, any subgroups
- OFF: Offshore companies/OIM/operators
- Hov: Main organizations
- H.i: Bodies or agencies for their comments
- Others:

No.: Corr 2 RSR 11-2017

Date: 23 January 2018

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Supersedes: Regulations of 25 June 2003 No. 787 on hours of work and rest on board fishing vessels

Reference to:

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.

Introduction

The Norwegian Maritime Authority has laid down provisions implementing into Norwegian legislation the International Labour Organization's (ILO) Convention concerning work in the fishing sector (ILO 188), adopted at the 96th ILC session in Geneva on 14 June 2007.

The implementation of ILO 188 is done partly by:

- a) ascertaining that current law harmonises with the requirements set out in ILO 188;
- b) laying down revised and new Regulations on hours of work and rest on board fishing vessels repealing Regulations of 25 June 2003 No. 787 on hours of work and rest on board fishing vessels; and
- c) laying down amendments to the following regulations:
 - Regulations of 25 April 2002 No. 423 on work by and placement of young people on Norwegian ships
 - Regulations of 5 June 2014 No. 805 on the medical examination of employees on Norwegian ships and mobile offshore units
 - Regulations of 18 June 2009 No. 666 on the manning of Norwegian ships
 - Regulations of 25 November 1988 No. 940 on supervision of maritime service
 - Regulations of 19 August 2013 No. 999 on the use of recruitment and placement services on ships
 - Regulations of 22 December 2014 No. 1893 on supervision and certificates for Norwegian ships and mobile offshore units
 - Regulations of 13 June 2000 No. 660 on the construction, operation, equipment and surveys of fishing vessels of 15 m in overall length (LOA) and over.

In connection with the publication on Lovdata, minor corrections were made to the Regulation concerning amendments to the Regulations on work by and placement of young people on Norwegian ships and amendments to other regulations. The corrections were carried out to make it clearer how the substantive provisions are to be consolidated into the regulations being amended.

The corrections were included in the revised manuscript for the Regulations mentioned above, and laid down by Corrected Circular 11-2017 dated 27 November 2017.

It is necessary to further correct the manuscript mentioned above.

The Norwegian Maritime Authority's Circulars consist of 2 series, **Series R: Regulations, Acts and Conventions, and Series V: Guidelines and interpretations.**

(Sdir. 2003.02 AIT) F:\KompSent\Oversetter\TRANS\DOCS\TRANSLATØR\Rundskriv\RSR 11-2017 Ny forskrift og forskriftsendringer som følge av ILO 188\eng) Korr. 2 RSR 11-2017.docx

Compared to the amending Regulation mentioned above, which was laid down on 10 November 2017, the following amendments have been laid down by the corrected Circular RSR 11-2017:

Under Roman numeral II:

The title of section 15 has been added.

Under Roman numeral III:

Section 1 first paragraph should read:

Under Roman numeral VI:

Section 14 second paragraph first *colon* should read:

Under Roman numeral VII:

Section 11-10 *first paragraph* current item 3 becomes new item 4.

Section 11-10 second paragraph *new* item 3 should read:

ILO 188 shall ensure that the persons working on board fishing vessels get better conditions related to working environment, health and safety at sea, and that sick and injured fishermen get treatment ashore. ILO 188 also includes rules on sufficient rest, protection through written work agreements and equivalent social security protection to other workers. The Convention enters into force on 16 November 2017, as a sufficient number of states has ratified ILO 188.¹

The consultation

The proposed new Regulations on hours of work and rest on board fishing vessels and proposed regulatory amendments to the seven regulations mentioned above were circulated for review on 27 July 2017, with deadline for comments on 15 October 2017. Eight bodies chose to reply to the consultation. Seven of these had comments to the proposed amendments.

In the following, the Norwegian Maritime Authority (NMA) will discuss the amendments to current Norwegian law that follow from ILO 188.

Requirements for manning and safe manning document

Pursuant to ILO 188 Article 13 (a), the competent authority (NMA) shall require that fishing vessels are sufficiently and safely manned for the safe navigation and operation of the vessel, and pursuant to ILO 188 Article 14 item 1, a minimum level of manning shall be established, which shall ensure the safety on board fishing vessels of 24 metres in length (L) and upwards.

Companies owning fishing vessels of 24 metres in length (L) and upwards shall submit a proposal for safe manning to the NMA, cf. section 8 of the Manning Regulations². The purpose is to ensure the ship's safety and the safety of the persons working on board, as well as prevent pollution. Qualifications and certificates required for persons working on board are set out, *inter alia*, in the Qualification Regulations³. The requirement for a safe manning document will help uncover any violations of the qualification requirements, the rules regarding hours of rest⁴ or the Watchkeeping Regulations⁵.

¹ Angola, Argentina, Bosnia and Herzegovina, Estonia, France, Congo, Lithuania, Morocco, Norway and South Africa

² Regulations of 18 June 2009 No. 666 on the manning of Norwegian ships

³ Regulations of 22 December 2011 No. 1523 on qualifications and certificates for seafarers

⁴ Regulations of 25 June 2003 No. 787 on hours of work and rest on board fishing vessels

⁵ Regulations of 30 June 1987 No. 580 on watchkeeping for the deck and engine department on Norwegian fishing vessels

In new section 15 of the Manning Regulations, the NMA has laid down transitional provisions that set out dates on which the requirement for safe manning documents for fishing vessels of 24 metres in length (L) and upwards will enter into force.

Requirement for crew list

Pursuant to ILO 188 Article 15, each fishing vessel shall carry a list of the crew on board. This information shall before or immediately after departure be given or sent to one or more designated shore-based persons. Such persons shall be designated by the company. The purpose of the requirement for crew list is that information shall be available ashore regarding the identity of the persons on board, for instance in the event of an accident.

Requirement for minimum age for work on fishing vessels

Pursuant to ILO 188 Article 9, the minimum age for work on board a fishing vessel is 16 years. Ratification of the Convention means that the age limit will have to be changed to 16 years in respect of fishing vessels. In Norway, compulsory schooling lasts ten years. Schooling normally starts the year a child turns six, cf. section 2-1 of the Education Act. For persons who are no longer subject to compulsory schooling and who are engaged in vocational training on board, ILO 188 Article 9 sets a minimum age limit of 15 years. ILO 188 Article 9 furthermore sets out that persons who are subject to compulsory schooling and have reached the age of 15 may also perform light work during school holidays.

Medical certificate requirement

Pursuant to ILO 188 Article 10, all fishers shall as a starting point have a medical certificate attesting to fitness to perform their duties, but the requirement may be limited to apply to fishers working on board fishing vessels of 24 metres in length (L) and upwards or fishing vessels which normally remain at sea for more than three days. The NMA has used the latitude provided by ILO 188, but not for fishers under the age of 18. This means that fishers who have not reached the age of 18 shall nonetheless have a valid medical certificate pursuant to the Health Regulations⁶.

Requirement for document attesting compliance with the requirements of ILO 188 (certificate for working and living conditions on board fishing vessels)

Pursuant to ILO 188 Article 41, certain fishing vessels which normally remain at sea for more than three days shall carry on board a document attesting that the working and living conditions on board the vessel comply with the requirements of the Convention at the time of the issue of the document.

The period of validity for this document may coincide with the trading certificate of compliance for the fishing vessel, nevertheless no more than 5 years. In connection with the implementation of ILO 188 into Norwegian law, the NMA has laid down that the period of validity of the trading certificate of compliance for fishing vessel is extended from four to five years. This means that inspections to confirm compliance with the requirements set out in ILO 188 may be carried out at the same time as the initial and renewal survey for the trading certificate of compliance for fishing vessel.

Comments to the new Regulations and regulatory amendments laid down by this Circular

New Regulations on hours of work and rest on board fishing vessels

⁶ Regulations of 5 June 2014 No. 805 on the medical examination of employees on Norwegian ships and mobile offshore units

As a result of ILO 188 Article 14 on hours of rest, amendments to the current legislation on requirements for hours of rest on fishing vessels have been laid down. The new Regulations on hours of work and rest on board fishing vessels continue requirements from the now repealed Regulations of 25 June 2003 No. 787 on hours of work and rest on board fishing vessels, and they also include new requirements on hours of rest from ILO 188 Article 14. Compared to the now repealed Regulations on hours of work and rest on board fishing vessels, the new Regulations have been restructured and include some linguistic specifications.

The provisions related to responsibility in section 4 of the repealed Regulations on hours of work and rest on board fishing vessels have not been continued in the new Regulations. The reason for this is that the provisions related to responsibility with regard to compliance with the regulatory requirements are set out in section 6, 8, 28a, 29 and 30 of the Ship Safety and Security Act.

The new Regulations on hours of work and rest on board fishing vessels use the term “the person working on board” instead of “employee”. This is because both the previous and the new Regulations include not only employees, but also self-employed persons who do not work alone on their own fishing vessel.

To section 1 Scope of application

It has been specified that the Regulations do not apply to persons only carrying out inspections on board, in line with the Ship Safety and Security Act, and in line with e.g. section 2 first paragraph of the Regulations on medical examination of employees on Norwegian ships and mobile offshore units.

To section 2 Definitions

Compared to the repealed Regulations on hours of work and rest on board fishing vessels, the definition of “fishing vessel” in section 2 (b) of the Regulations has been simplified. The definition of “fishing vessel” includes, as before, vessels used commercially for fishing, hunting or harvesting living resources of the sea, and includes both fishing, hunting sea mammals, etc., and harvesting of e.g. seaweed and seashells.

The definition of “night worker” has not been continued, as this term is not used in the new Regulations on hours of work and rest on board fishing vessels. The contents of the definition of “night worker” has instead been incorporated into section 4 second paragraph (a) of the Regulations. The term “night work”, however, has been continued and included in section 2 first paragraph (d).

The terms “working hours” and “hours of rest” have also been continued from the repealed Regulations with some editorial changes.

To section 3 Working hours and hours of rest

Section 3 of the Regulations for the most part continues sections 7 and 9 of the repealed Regulations on hours of work and rest on board fishing vessels, but with some new requirements and specifications. See more information about this below.

Section 3 first paragraph of the Regulations continues section 7 first paragraph of the repealed Regulations.

Section 3 second paragraph of the Regulations continues section 7 second and third paragraphs of the repealed Regulations. It has furthermore been specified that it is just the 10-hour rest period that may be divided into two periods.

Section 3 third paragraph of the Regulations continues the requirements of section 7 fourth paragraph of the repealed Regulations, with the addition of ILO 188 Article 14 No. 4 final sentence regarding requirement for an adequate period of rest to be provided if fishers have performed work in a scheduled rest period.

Section 3 fourth paragraph of the Regulations continues section 9 of the repealed Regulations regarding exceptions through collective agreements. The terms for exceptions are laid down in Directive 2003/88/EC Article 21, but minor changes have been made to the wording of the provision in accordance with the Ministry of Foreign Affairs' translation of the Directive into Norwegian. Some of the Norwegian terms have therefore been changed. However, the changes do not entail any substantive changes to the provision compared to the repealed Regulations. A specification has also been included, that when exceptions are set out in a collective agreement, the health and safety of persons working on board shall be taken into account, including the need for rest, see section 24 third paragraph of the Ship Safety and Security Act and ILO 188 Article 13 (b). We have also specified that exceptions cannot be in contravention of ILO 188 or Directive 2003/88/EC. At the end of section 3 fourth paragraph, section 9 second paragraph of the repealed Regulations has been continued, in that on vessels not covered by collective agreements, a written agreement to follow exceptions from hours of work and rest laid down in collective agreements for equivalent crew groups and vessels may be entered into.

To section 4 Organisation of work

Section 4 of the Regulations continues and specifies section 6 of the repealed Regulations on hours of work and rest on board fishing vessels, with the exception of the reference to the repealed Regulations of 4 August 2000 No. 808 on the working environment, health and safety of workers on board ship.

Section 6 final sentence of the repealed Regulations, that sets out that special considerations shall be made for the risk to health and safety to which night workers and workers who participate in shift work are exposed, has been reworded. In section 4 second paragraph of the Regulations it has been made clear that particular consideration shall be given to the fact that there may be increased risk to the health and safety of persons who perform a certain percentage of night work or who participate in shift work. As mentioned above under the comments to section 2 of the Regulations, the content of the definition of "night worker" from section 3 (e) of the repealed Regulations has been incorporated into section 4 second paragraph (a).

To section 5 Special provisions regarding night work

Section 5 of the Regulations continues section 8 of the repealed Regulations with some editorial changes.

To section 6 Supervision

Section 6 of the Regulations is a continuation of section 10 of the repealed Regulations.

To section 7 Exemptions

Section 7 of the Regulations continues section 5 of the repealed Regulations concerning exemptions.

It has been specified that the company must apply for an exemption in writing. The company must furthermore establish that the requirement is not essential and that the exemption is considered justifiable in terms of health and safety, or that compensating measures will maintain the same level of safety as the requirement of these Regulations. The Norwegian Maritime Authority may lay down special conditions for exemptions pursuant to the provision.

For fishing vessels irrespective of size, which remain at sea for more than three days, the NMA may only for limited and specified reasons permit temporary exceptions from the provisions on hours of rest, cf. ILO 188 Article 13 No. 2, cf. same article No. 1 (b).

Following consultation with the companies' and fishers' organisations, the NMA may lay down requirements that replace the requirements on hours of rest set out in ILO Article 13 No. 1 (b) and 2, cf. ILO 188 Article 14 No. 3. However, such alternative requirements shall be substantially equivalent and shall not jeopardise the health and safety of the fishers.

To section 8 Entry into force

The Regulations enter into force on 16 November 2017. As from the same date, the Regulations of 25 June 2003 No. 787 on hours of work and rest on board fishing vessels are repealed.

Amendments to Regulations of 25 April 2002 No. 423 on work by and placement of young people on Norwegian ships (Regulations 2002/423)

Regulations 2002/423 implement, *inter alia*, Directive 94/33/EC on the protection of young people at work and Directive 2009/13/EC implementing the Agreement concluded by the European Community Shipowners' Associations (ECSA) and the European Transport Workers' Federation (ETF) on the Maritime Labour Convention, 2006.

To section 1 Scope of application

The structure of the provision on scope of application has been changed, and the provision now has two paragraphs compared to the previous three. The first paragraph has been divided into subparagraphs a) and b). The amendments are editorial and changes the wording without amending the substantive content.

It is set out in first paragraph (a) that the Regulations apply when young people under the age of 18 are working on board Norwegian ships. Work on board Norwegian ships means paid work, work for other forms of remuneration and work that forms part of vocational training or of apprenticeship contracts.

The first paragraph (b) continues current law as it was set out by section 1 second paragraph of Regulations 2002/423.

The reason for repealing section 1 third paragraph is related to the structure of the Norwegian body of laws and regulations. Like the body of laws and regulations in most countries, the Norwegian system has a fragmentary structure. In order to solve a legal question, it is often necessary to draw upon several provisions from the same Act or Regulations or from different acts and regulations and other sources of law such as case law and administrative practice, the legislative history of acts, etc. By specifically referencing certain regulations in the scope of application of a set of Regulations, it could give the impression that these are the only regulations that are of relevance for young people who are working or placed on board Norwegian ships. Incomplete references of this kind could lead to unintentional contrasting conclusions compared to provisions that are not mentioned. The NMA therefore presumes that the users themselves, without references in an individual regulatory text, have sufficient knowledge of the content of the legislation and are able to find the relevant provisions.

To section 2 Definitions

The definitions of section 2 have been repealed. Persons who will be considered young people, i.e. persons under the age of 18, is set out by section 1 first paragraph of the Regulations. Furthermore, it has been specified in section 1 second paragraph that "work" also means work that forms part of apprenticeship contracts or secondary education.

The reason for repealing section 2 subparagraph b is that the amended wording of section 1 and the new subparagraph b make it unnecessary to continue the definition of “placement on ships engaged on domestic voyages [...]”.

To section 3 Duties

The provisions on duties in section 3 have been repealed as the provisions on duties are laid down in sections 6, 8, 28a, 29 and 30 of the Ship Safety and Security Act. Duplicate requirements are neither desirable nor necessary, and could have unintentional consequences.

To section 4 Exemptions

Editorial changes have been made to section 4 first paragraph in order to correct references to other sections of the Regulations.

To section 9 The working time of young people

As a result of Norway’s ratification of ILO 188 and the entry into force of this Convention on 16 November 2017, young people under the age of 15 are not allowed to work on board a fishing vessel. Changes to certain provisions on minimum age and working time of young people working on board fishing vessels have therefore been laid down, regardless of whether such work forms part of practical vocational training or is light work performed during school holidays.

ILO 188 Article 1 paragraph 1 first sentence sets out that the minimum age for work on board a fishing vessel shall be 16 years. This provision is equivalent to section 18 first paragraph first sentence of the Ship Safety and Security Act. Section 18 first paragraph second sentence provides the legal basis for regulations permitting exemptions from the requirements of section 18 first paragraph.

ILO 188 Article 9 paragraph 1 second sentence allows for a minimum age of 15 years for persons who are no longer subject to compulsory schooling, cf. the Education Act⁷, and who are engaged in vocational training in fishing. ILO 188 Article 9 paragraph 2 allows for persons of the age of 15 who are subject to compulsory schooling pursuant to the same Act to perform light work on fishing vessels during school holidays. The competent authority, i.e. the Norwegian Maritime Authority, shall determine the kinds of work covered by the term “light work”.

ILO 188 Article 9 thus sets out a minimum age of 15 years for young people working on board a fishing vessel. This minimum age of 15 years applies regardless of whether a young person is subject to compulsory schooling. Normally, a young Norwegian person will be subject to compulsory schooling up to and including the year he or she turns 16, i.e. when the 10th year of primary education has been completed, cf. section 2-1 fourth paragraph of the Education Act. Pupils who are 15 years of age when the primary education has been completed and who are engaged in vocational training may perform work on board a fishing vessel.

It is set out in section 18 of the Ship Safety and Security Act that the Ministry may issue regulations on minimum age, including deviating from the main rule of an age limit of 16 years for the person working on board. The scope of action set out in section 18 is used in Regulations 2002/423.

Some minor editorial changes have been laid down in section 9 first paragraph. The purpose of the changes is to improve the structure and simplify the wording.

⁷ See Act of 17 July 1998 No. 61.

As regard the amendments to section 9 third paragraph, please refer to the general discussion above concerning that young people under the age of 15 are not allowed to carry out work on board fishing vessels. In connection with the implementation of ILO 188 into Norwegian law, only young people working on board ships which are not used for commercial purposes may be under the age of 15. The structure of section 9 third paragraph has therefore been changed, so that the paragraph starts with a scope of application, whereas current law for this group of people has been continued in section 9 third paragraph (a), (b) and (c). The minimum age for admission to work is 13 years, as set out by ILO Convention No. 138. The Norwegian Maritime Authority has laid down this lower limit in section 9 third paragraph (a) and (b).

Section 9 fourth paragraph continues current law as it was set out in former section 9 sixth paragraph.

Section 9 fifth paragraph, as the paragraph is structured and amended, applies to young people who have turned 15 years of age, and who can work on board fishing vessels according to the legal basis for exemption set out in section 18 of the Ship Safety and Security Act. The amendment implements ILO 188 Article 9 paragraphs 1 and 2.

Section 9 sixth paragraph continues current law as it was set out in the former eighth paragraph, but with updated references as a result of the amendments to section 9 third paragraph.

To section 10 Prohibition of night work

Section 10 second paragraph has been amended because it is set out in ILO 188 Article 9 that young people under the age of 15 are not allowed to work on board fishing vessels. This means that provisions prohibiting night work for young people under the age of 15 are not continued. The other substantive provisions in the paragraph are continued, nevertheless with some editorial changes. The age range from 15 to 18 years has not been continued since the lower limit for young people allowed to work on board a fishing vessel is 15 years, cf. the amended section 9 fifth paragraph. It is further set out in the scope of application of section 1 that the Regulations apply to young people who have not turned 18 years old, i.e., the Regulations apply to young people who are under the age of 18.

To section 11 Rest periods and leisure time

As referred to in the comments to section 10, the Regulations 2002/423 apply to young people under the age of 18, cf. section 1 first paragraph. The Norwegian Maritime Authority has thus not continued the wording “under the age of 18” from former section 11 first and third paragraphs. It is evident that if the Regulations now state that “Young people shall have...”, this applies to the persons subject to the Regulations 2002/423, i.e. young people under the age of 18.

Amendments to Regulations of 5 June 2014 No. 805 on the medical examination of employees on Norwegian ships and mobile offshore units (Health Regulations)

The scope of application of the Health Regulations has been changed, since ILO 188 Article 10 leads to more fishing vessels being covered by the requirement for medical certificate. The Regulations have also been amended in order to implement STCW⁸ requirements, and some ambiguities have been clarified.

To section 1 Purpose

The provision continues section 1 of the Regulations with editorial changes.

To section 2 Scope of application

⁸ International Convention on Standards of Training, Certification and Watchkeeping for Seafarers

The provision has been amended in accordance with ILO 188 Article 10. A specification has also been included in subparagraph a) regarding the NMA's current administrative practice.

The first paragraph continues section 2 of the Regulations with editorial changes.

The exceptions in section 2 second paragraph apply to fishing vessels which are *normally* at sea for continuous periods of no more than three days. This is a continuation of the current administrative practice, and means that the exception applies to vessels with an *operational pattern* indicating that it is at sea for continuous periods of no more than three days. Should a vessel nevertheless exceptionally remain at sea for more than three days, the medical certificate requirement will not become applicable, as this will not be the normal operational pattern of the vessel.

In the second paragraph (a), it has been laid down that a person who has turned 18 years of age is exempt from the Regulations when that person is working on board a fishing vessel of up to 15 metres in overall length which is at sea for continuous periods of no more than three days. This is a specification of the current administrative practice that fishing vessels of up to 15 metres in overall length are placed on equal terms with fishing vessels of less than 100 gross tonnage. Fishing vessels of less than 15 metres in overall length are not subject to mandatory tonnage measurement. The NMA considers it very unlikely that fishing vessels of a length that is not subject to mandatory tonnage measurement will have a gross tonnage of 100 or more. Real considerations therefore indicate that fishing vessels of less than 15 metres in overall length should be placed on equal terms with fishing vessels of less than 100 gross tonnage when it comes to requirement for medical certificate for fishers on board this group of fishing vessels.

The second paragraph (b) sets out an exception for fishing vessels of less than 24 metres in length (L) certified for Bank fishing I or lesser trade areas. ILO 188 Article 10 paragraph 3 does not allow exemptions from the medical certificate requirement for work on fishing vessels of 24 metres in length (L) and upwards.

To section 4 Medical certificate requirement

In the first paragraph, it has been specified that any person working on board shall have a valid medical certificate. This specification is in accordance with ILO 188 Article 10 paragraph 1 and the Maritime Labour Convention (MLC) Standard A1.2 paragraph 1.

To section 5 The validity of the medical certificate

Only editorial changes have been made in section 5.

To section 6 Requirement for new medical certificate

In the second paragraph first sentence, it has been specified that grounds must be given for a demand for new medical certificate. This requirement is already presupposed in the second sentence, which states what the grounds for the demand may be. Apart from that, only editorial changes have been made in section 6.

To section 7 Requirements for approval as seafarer's doctor

Only editorial changes have been made in section 7.

To section 8 Proof of identity and self-declaration

Only editorial changes have been made in section 8.

To section 9 The seafarer's doctor's competence and administrative procedure

Only editorial changes have been made in section 9.

The purpose of the provision of section 9 fifth paragraph is to prevent forgery and misuse of medical certificates. The amendment makes it clearer that the purpose of the provision is that the seafarer's doctor must shred the paper version of the expired medical certificate in order to avoid forgery.

To section 10 Issue of medical certificate
Editorial changes have been made throughout the section.

In the second paragraph, it has been specified when the seafarer's doctor may issue a medical certificate even if examination results are not available before the commencement of service. The specification makes it clear that the seafarer's doctor must assess, on the basis of section 1 of the Regulations, whether it is justifiable in terms of health and safety to issue the medical certificate. This has replaced the wording of the current Regulations, that the medical certificate may be issued if the seafarer's doctor "considers it to be unobjectionable".

In the new fourth paragraph, a new provision has been included that the seafarer's doctor must register the medical certificate in the Norwegian Maritime Authority's database, in the same way as is set out for declarations of unfitness in section 12 fourth paragraph of the Regulations.

In the new fifth paragraph, the requirement of STCW section A-I/9 paragraphs 7.4 and 7.5 has been implemented. The medical certificate shall be stamped and signed by the seafarer's doctor, and signed by the person working on board.

To section 11 Issue of limited medical certificate
Editorial changes have been made throughout the section.

The second paragraph specifies what the seafarer's doctor must take into consideration when considering whether a limited medical certificate should be issued. In addition, the provision has been divided into subparagraphs a to d in order to provide a better overview of the considerations to include in the assessment.

It has been specified in subparagraph d that the doctor should take into consideration the effect it would have on the health and safety of others on board if a limited medical certificate is issued. This is also in accordance with the purpose of the Regulations set out in section 1. The Regulations previously stated that consideration should be given to "the health of other persons on board", but the provision does not mean that the seafarer's doctor should have access to information about the health of others on board.

The third paragraph specifies that the seafarer's doctor shall register the medical certificate on an electronic form for medical certificate in the NMA's database.

In the new fourth paragraph, the requirement of STCW section A-I/9 paragraphs 7.4 and 7.5 has been implemented. The medical certificate shall be stamped and signed by the seafarer's doctor, and signed by the person working on board.

To section 12 Issue of permanent, temporary and provisional declaration of unfitness
Editorial changes have been made throughout the section.

In the third paragraph, the duty of the seafarer's doctor to notify of a decision on provisional declaration of unfitness has been limited to the company and the person who is the subject of the decision. The requirement to notify the master has been taken out of the provision. It is considered

to have been impractical and unreasonably demanding for the seafarer's doctor to find out, at the time of the decision, who the master of the person working on board was. The final sentence specifies that the decision relating to provisional declaration of unfitness shall stand until a new decision has been made, whether the new decision regards medical certificate, limited medical certificate, permanent declaration of unfitness or temporary declaration of unfitness.

In the fourth paragraph, it has been specified that it is *the seafarer's doctor* who shall register the medical certificate on an electronic form for medical certificate in the NMA's database.

The new fifth paragraph specifies that the declaration of unfitness shall be stamped and signed by the seafarer's doctor.

To section 13 Appellate body for health cases
Editorial changes have been made throughout the section.

The name of the appellate body has been changed from the "Appellate body concerning medical certificates for employees on Norwegian ships and mobile offshore units" to the "Appellate body for health cases". The competence of the appellate body is set out in section 14 of the Regulations.

To section 14 The competence of the appellate body for health cases
The section heading has been changed in accordance with the reference to the appellate body for health cases in section 13.

In the first paragraph, it has been specified that the appellate body for health cases is competent to consider both appeals and applications for exemption.

To section 15 Appeals against decisions made by a seafarer's doctor
Only editorial changes have been made in the section.

To section 16 Exemptions
Editorial changes have been made throughout the section.

In the first paragraph, it has been specified that it is the appellate body for health cases which has been delegated the authority to grant persons working on board exemptions from one or more of the Regulations' health requirements. The NMA does not process applications for exemption from the Regulations.

In the third paragraph second sentence, it has been specified that seafarer's doctors with practice in Norway shall forward the application for exemption directly to the NMA, while seafarer's doctors with practice outside Norway shall forward applications for exemption to the NMA by way of a foreign service mission.

To section 17 Postponed execution of decision
Only editorial changes have been made in the first paragraph. The provision has been divided into subparagraphs a and b in order to provide a better overview of the conditions for postponed execution of decision. Furthermore, it has been specified in the introduction to the provision that this provision is only applicable in the case of appeals or applications for exemption.

Amendments to Regulations of 18 June 2009 No. 666 on the manning of Norwegian ships (Manning Regulations)

Manning and Safe Manning Document

ILO 188 Article 13 sets out that fishing vessels shall be sufficiently and safely manned for the safe navigation and operation of the vessels, while ILO 188 Article 13 paragraph 1 lays down a requirement for a safe manning document for fishing vessels of 24 metres in length (L) and over.

Crew list

Pursuant to ILO 188 Article 15, each fishing vessel shall carry a list of the crew on board. The crew list requirement in section 8 of the Regulations on supervision of maritime service has been moved to the Manning Regulations, and it has also been amended in order to satisfy the requirement for crew list set out in ILO 188.

To section 1 Scope of application

It is set out in ILO 188 Article 14 paragraph 1 that fishing vessels of 24 metres in length (L) and over shall have a safe manning document. Fishing vessels of 24 metres in length (L) and over have therefore been included in section 1 and are thus covered by the scope of application of the Regulations.

To section 2 Definitions

Subparagraph c)

In section 2 first paragraph (c) it has been laid down that fishing vessels are defined in the same way as in section 2 subparagraph b) of the new Regulations on hours of work and rest on board fishing vessels.

To section 9 Minimum requirements for safe manning

New fourth paragraph

In section 9 new fourth paragraph it has been laid down that the minimum requirement is not applicable to fishing vessels, as the provision is not a requirement pursuant to ILO 188.

To section 14 Requirement for crew list

ILO 188 Article 15 sets out a requirement for crew list for fishing vessels. As mentioned above, the crew list requirement that was laid down in section 8 of the Regulations on supervision of maritime service has been moved to section 14 of the Manning Regulations.

In order to continue the requirement for a crew list on all vessels that are subject to section 8 of the Regulations on supervision on maritime service, and since the requirement for crew list in ILO 188 Article 15 applies to all fishing vessels, the NMA has laid down that section 14 of the Manning Regulations shall apply to passenger ships, cargo ships and fishing vessels regardless of size.

Every ship irrespective of size shall carry a crew list showing the persons who are working on board at any time. The term “ship” includes Norwegian passenger ships, cargo ships and fishing vessels, cf. section 1 first paragraph of the Manning Regulations. The crew list shall be updated at the latest in connection with the ship leaving port. The company shall keep a copy of the crew list ashore. Both the crew list and the copy of the crew list may be in an electronic format. IMO’s crew list form may be used as a template, but the company may also draw up their own crew lists with equivalent or more detailed information.

The NMA, recognised classification societies and approved companies, along with others authorised by the NMA, may require a copy of the crew list to be handed over.

The requirement for crew list from section 8 of the Regulations on supervision of maritime service has not been continued for mobile offshore units. The company shall have an overview of the persons working on board the mobile offshore unit at any time. This is presupposed by

section 2 of the Regulations of 5 September 2014 No. 1191 on safety management system for Norwegian ships and mobile offshore units, cf. the International Safety Management (ISM) Code paragraph 5 on emergency preparedness, and it is also necessary to have an overview of the persons working on board in connection with the reporting of seagoing service. Moreover, the NMA considers it to be of no practical importance for Norwegian mobile offshore units to have a special regulation on crew list requirement, since the companies keep crew lists regardless.

Section 8 of the Regulations on supervision of maritime service only applies to Norwegian citizens, cf. section 2 of the Regulations on scope of application. Moving the crew list requirement from the Regulations on supervision of maritime service to the Manning Regulations means that the requirement will include all persons working on board Norwegian vessels subject to the Manning Regulations, irrespective of nationality. This is in accordance with the rest of the NMA's legislation concerning protection of the persons working on board, as well as ILO 188 Article 15.

To new section 15 Transitional provisions for fishing vessels

In order to give the fisheries industry sufficient time to implement the requirement for safe manning document on fishing vessels of 24 metres in length (L) and upwards, the NMA has laid down a transitional provision in new section 15.

Firstly, the transitional provision means that fishing vessels the keel of which is laid or which are at a similar stage of construction on or after 16 November 2017, i.e. on or after the date of entry into force of ILO 188, must submit a proposal for safe manning document to the NMA by 1 July 2018.

Secondly, fishing vessels the keel of which was laid or which were at a similar stage of construction before 16 November 2017 must submit a proposal for safe manning document to the Norwegian Maritime Authority within the vessel's first certificate renewal after 1 July 2018 and not later than 1 January 2020.

Former section 14 of the Manning Regulations has become new section 16.

Amendments to Regulations of 25 November 1988 No. 940 on supervision of maritime service

The requirement for crew list in section 8 of the Regulations on supervision of maritime service has been repealed, and the provision has instead been included in the Manning Regulations, although in a slightly amended form. See comments to section 14 of the Manning Regulations above.

Amendments to Regulations of 19 August 2013 No. 999 on the use of recruitment and placement services on ships (Recruitment Regulations)

The Recruitment Regulations implement among other things MLC Chapter 1.4 on recruitment and placement (see MLC Regulation 1.3, cf. Standard A1.4 and Guideline B1.4). Amendments to the Regulations have been laid down in order to implement ILO 188 Article 22 on the recruitment and placement of fishers.

It is set out in section 3-9 of the Ship Labour Act that employers using recruitment and placement services shall document that those services conform to requirements laid down in or pursuant to the Act of 10 December 2004 No. 76 relating to labour market services (Labour Market Act). The company's "see to" duty is set out in section 2-4 of the Ship Labour Act. In other words, if the employer is someone other than the company, the company has a duty to see to that such documentation exists. Section 3-9 of the Ship Labour Act provides the legal basis for issuing

regulations containing further provisions on the employer's duty to ensure that documentation exists when using recruitment and placement services on ships, including fishing vessels.

The Recruitment Regulations do not regulate the recruitment and placement service as obligated party, but the Labour Market Act regulates certain aspects of recruitment and placement activities in Norway. Chapters 1 to 7 of the Labour Market Act apply to any person with legal residence in the kingdom and to any person running a legitimate business in Norway, and Chapter 8 of the Labour Market Act regulates the private recruitment, placement and hiring out of employees. Among other things, the Labour Market Act stipulates that services engaged in private recruitment and placement cannot demand payment from the job-seeker for the placement service, cf. section 26 of the Act. However, requirements for licensing or certification of recruitment and placement services used on Norwegian ships are not regulated by law.

The NMA has implemented ILO 188 Article 22 by laying down amendments to sections 1 to 3 of the Recruitment Regulations.

Firstly, it has been specified in section 1 of the Regulations, on the scope of application, that the Regulations apply to fishing vessels.

Secondly, a reference to ILO 188 has been included in sections 2 and 3.

The reference to ILO Convention No. 179 on the recruitment and placement of seafarers (ILO 179) has been taken out of the Recruitment Regulations. Up to the amendments laid down by these Regulations, ILO 179 was given equal status to the MLC in the Regulations. ILO 179 contains requirements which are comparable to the requirements of MLC chapter 1.4. When the Recruitment Regulations were laid down in 2013, practical considerations pointed towards such a solution because at that time, countries providing labour to Norwegian ships had ratified ILO 179, but it was uncertain whether they would ratify the MLC. Four years after the Regulations were laid down, however, the situation is very different. The MLC has been ratified by, among others, the Philippines and other large suppliers of labour to Norwegian vessels, and the Convention now covers more than 90% of the global fleet. It is the NMA's assessment that there is no longer a need to give the ILO 179 equal status to the MLC even though the requirements of the Conventions are comparable.

In section 3 first paragraph it is set out that an employer who for the recruitment and placement of employees on cargo ships and passenger ships uses recruitment and placement services operating in a country which has not ratified the MLC, or the MLC or ILO 188 when recruiting and placing employees on fishing vessels, shall have documentation demonstrating that the recruitment and placement services have procedures showing that certain requirements are satisfied. Among other things, the procedures shall show that the recruitment and placement service is not using means, mechanisms or lists intended to prevent or deter employees from gaining employment for which they are qualified, and that the service is not requiring payment from the employee, cf. section 3 first paragraph (a) and (b). The reason why the MLC is given equal status to ILO 188 in section 3 first paragraph is that the MLC has more and more detailed requirements for recruitment and placement services than ILO 188. Recruitment and placement services satisfying the requirements of MLC Chapter 4.1 are thus also considered to satisfy the requirements of ILO 188 Article 22.

It is set out by section 3 second paragraph new subparagraph c) that when the employer has used a recruitment and placement service based in a country which has ratified the MLC or ILO 188, it is sufficient that the employer has confirmation that the recruitment and placement service is based in such a country. In the same way as in section 3 first paragraph of the Regulations, and with the same grounds, the MLC is given equal status to ILO 188 in new subparagraph c).

The reference to the MLC in the Recruitment Regulations has also been changed in accordance with the Certificate Regulations⁹ section 14 second paragraph, so that section 2 (c) of the Regulations now reads: “The Maritime Labour Convention (MLC)”. The Convention is consequently referred to as “MLC” further on in the Regulations.

Amendments to Regulations of 13 June 2000 No. 660 on the construction, operation, equipment and surveys of fishing vessels of 15 m in overall length (LOA) and over (Regulations 2000/660)

In the following, the term “constructed” shall be understood as the date on which the building contract is placed, or, in the absence of a building contract, the date on which the keel is laid or when construction identifiable with a specific vessel begins, or assembly has commenced, comprising at least 50 tonnes or 1 per cent of the estimated mass of all structural material, cf. section 1-2 item 34 of the Regulations.

To section 11 Construction

First paragraph item 2 new subparagraph e.

It is set out in ILO 188 Appendix III items 14 and 15 that the headroom in the accommodation spaces of vessels of more than 24 metres in length (L) shall be at least 2,000 millimetres. A reduction in headroom to 1,900 mm in an area in the accommodation spaces may be accepted when deemed reasonable and provided the reduction will not cause inconvenience to the crew. The requirement for headroom in the current provision is 1,980 millimetres. The requirement for headroom on “production decks” is already in accordance with ILO 188. It can also be mentioned that section 8 item 2.4 of the Regulations of 15 October 1991 No. 713 on the location, etc. of accommodation and on the catering service for the crew on fishing vessels required the headroom in accommodation spaces to be at least 2,000 mm. The requirement for increased headroom in accommodation spaces is made applicable to vessels of 24 metres in length (L) and upwards constructed on or after 1 January 2019.

To section 11-5 Ventilation

The sixth paragraph has been given new content.

It is stipulated by ILO 188 Annex III item 28 that for vessels of 24 metres in length (L) and over engaged in areas where temperate climatic conditions so require, air conditioning shall be provided in recreation rooms, the bridge, the radio room and any centralised machinery control room. The NMA presupposes that the requirement for air conditioning in these spaces is an expansion of the requirements already set out in section 11-5 fifth paragraph of Regulations 2000/660. The NMA has therefore laid down that the scope of application of section 11-5 sixth paragraph is equivalent to the scope of application set out in the fifth paragraph of the same section, i.e. that the requirement for air conditioning in recreation rooms, the bridge, the radio room and any centralised machinery control room applies to fishing vessels engaged in fishing between 40 degrees N and 40 degrees S.

To section 11-8 Sleeping rooms

Fifth paragraph.

It is stipulated in ILO 188 Annex III item 28 that there shall be no direct openings into sleeping rooms from storerooms. However, storerooms are not mentioned in the current section 11-8 fifth

⁹ Regulations of 22 December 2014 No. 1893 on supervision and certificates for Norwegian ships and mobile offshore units

paragraph. The limitation is made applicable to new vessels constructed on or after 1 January 2019.

To section 11-9 Size and furnishings of sleeping rooms
Fifth paragraph item 5(c).

The amendment to the fifth paragraph item 5(c) implements ILO 188 Annex III item 31, which requires berths to be provided with a reading light in addition to the normal lighting of the room.

Fifth paragraph new item 7.

In the fifth paragraph, a new item 7 has been added to implement ILO 188 Annex III item 44 which requires that 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.

To section 11-10 Mess rooms, day rooms, etc.

The NMA has laid down amendments to section 11-10 first paragraph on the basis of ILO 188 Annex III item 69, which among other things requires that the mess room shall be equipped with linen and eating utensils for all persons on board.

In the second paragraph, the content of item 3 has been changed as a result of ILO 188 Annex III item 70, which requires that appropriate recreational facilities, amenities and services shall be provided for everyone on board. The text that was previously included in section 11-10 second paragraph item 3 becomes new item 4.

To section 11-13 Hospital accommodation

Current law requires hospital accommodation on fishing vessels with a crew of 15 or more on board.

In connection with the implementation of ILO 188 into Norwegian law, hospital accommodation is also required on fishing vessels of 45 metres in length (L) and over, cf. ILO 188 Article 28, cf. Annex III item 67.

To section 11-17 Diet, etc.

Section 11-17 second sentence has been amended in order to satisfy ILO 188 Annex III item 78, which requires that the diet on board shall be adapted to the needs of the fishers, and that the religious and cultural practices of the persons on board the fishing vessel shall be taken into account.

Amendments to Regulations of 22 December 2014 No. 1893 on supervision and certificates for Norwegian ships and mobile offshore (Certificate Regulations)

It is stipulated by ILO 188 Article 41 that fishing vessels remaining at sea for more than three days, which are 24 metres in length (L) and over or normally navigate at a distance exceeding 200 nautical miles from the base line or beyond the outer edge of the continental shelf, whichever distance from the coastline is greater, shall carry a document on board stating that the vessel has been inspected for compliance with the provisions of ILO 188. In the following, this document is referred to as certificate for working and living conditions on fishing vessel.

It is the NMA's assessment that two of the conditions stipulated by ILO 188 Article 41 item 1, namely condition one: "... remaining at sea for more than three days..." and condition two: "...which normally navigate at a distance exceeding 200 nautical miles from the coastline of the flag State...", are not very suitable, neither as material nor territorial scope of application as to

when the requirement for certificate for working and living conditions on fishing vessel should apply. The wording "... remaining at sea for more than three days..." is not qualified, neither with regard to operational pattern or in which period (week, month, year) it actually occurs that a fishing vessel remains at sea for more than three days. ILO 188 Article 41 thus provides no grounds for laying down the frequency that may be used to determine whether a fishing vessel normally remains at sea for more than three days.

Nor does the condition "...which normally navigate at a distance exceeding 200 nautical miles from the coastline of the flag State..." provide much guidance in order to lay down a territorial scope. Fishing vessels fish: (1) where the licence permits fishing, (2) where the fishing vessel can be expected to make a large catch and (3) in the trade areas for which the fishing vessel is certified.

In order to create a predictable system, the NMA has therefore laid down that the requirement for a certificate for working and living conditions is linked to two conditions which are both understandable, predictable and easy to administer and comply with, namely the length of a fishing vessel combined with the trade area for which the fishing vessel is certified. The NMA has thus set out that the requirement for certificate for working and living conditions shall apply to fishing vessels of 15 metres in overall length (LOA) and upwards certified for Deepsea fishing I or greater trade area, and fishing vessels of 24 metres in length (L) and upwards certified for Bank fishing I or greater trade area.

The premiss for the stipulated scope of application is that fishing vessels of 15 metres in overall length (LOA) and over that are certified for fishing beyond 200 nautical miles from the base line (in trade area Deepsea fishing I or greater trade area) have an operational pattern indicating that it is not uncommon for such vessels to remain at sea for more than three days.

Based on the NMA's data, there were 23 fishing vessels of less than 24 metres in length (L) as per 12 June 2017 that were certified for trade area Deepsea fishing I or greater trade area. These vessels are thus required to have certificate for working and living conditions on fishing vessels

In the NMA's assessment, it will be relatively normal for fishing vessels of 24 metres in length (L) and upwards certified for trade area Bank fishing I or greater trade area to remain at sea for more than three days. The NMA has therefore laid down that fishing vessels of 24 metres in length (L) and upwards certified for Bank fishing I or greater trade area will be subject to inspection for compliance with the requirements of ILO 188. The inspection will result in a certificate for working and living conditions on fishing vessels.

Based on the NMA's data per 12 June 2017, there were:

- 8 fishing vessels of 24 metres in length (L) and upwards certified for Bank fishing I
- 34 fishing vessels of 24 metres in length (L) and upwards certified for Bank fishing II
- 206 fishing vessels of 24 metres in length (L) and upwards certified for Deepsea fishing I or greater trade area.

Based on the premises and data referred to above, the NMA presupposes that around 260 fishing vessels will be required to undergo an inspection as basis for being issued a certificate for working and living conditions on fishing vessels.

Compared to the NMA's checklist used in connection with unscheduled inspections of fishing vessels, there are no new checklist points that will be used in order to check compliance with the requirements of ILO 188.

To section 14 Certificate for working and living conditions

In order to continue the structure of the Certificate Regulations, the requirement of ILO 188 Article 41 on certificate for working and living conditions on fishing vessels has been implemented into Norwegian law following the same pattern that was used in connection with the implementation of the MLC.

This means that the requirement for certificate for working and living conditions on fishing vessels has been included in section 14 of the Certificate Regulations, which has been given a new fourth paragraph. Furthermore, the description of the content and validity period of the certificate is set out in a new fifth paragraph.

To section 15 Supervision for certificate for working and living conditions

In order to separate the Maritime Labour Certificate from the certificate for working and living conditions on fishing vessels, the NMA has added a specification in section 15 first paragraph first sentence in front of the colon. The specification shall show that section 15 first paragraph only applies to cargo ships and passenger ships.

Since supervision for certificate for working and living conditions on fishing vessels is included in the same section as the currently applicable provisions on supervision for the maritime labour certificate, the NMA has also added a specification in section 15 second paragraph where this refers back to the requirement for maritime labour certificate set out in section 15 first paragraph.

In section 15 second paragraph, the NMA has laid down an amendment that refers back to the requirement of the first paragraph that MLC inspections shall be carried out, and that the supervision may be carried out in conjunction with an audit of the safety management system on board.

Section 15 third paragraph has been amended, and refers back to the requirement of the first paragraph (b) that an intermediate MLC inspection shall be carried out.

In section 15 new fourth paragraph, the purpose is to express the inspection interval in connection with issuance or renewal of the certificate for working and living conditions on fishing vessels.

To section 27 Supervision for trading certificate of compliance for fishing vessel

Prior to the amendments laid down by this Circular, it was set out in section 27 first paragraph (b) of the Certificate Regulations that the trading certificate of compliance for fishing vessel should have a renewal survey every four years.

In connection with the implementation of ILO 188, the NMA has laid down that the validity period of the trading certificate of compliance for fishing vessel shall be five years, cf. section 27 first paragraph (b) as amended by this Circular.

The amendment that involves a five-year validity period for the trading certificate of compliance for fishing vessel is based on amendments adopted on 11 October 2012 by a diplomatic conference held in Cape Town under the auspices of IMO, and where the amendments applied to the Torremolinos International Convention for the Safety of Fishing Vessels, 1977, as amended by the 1993 Torremolinos Protocol, regulation 7, cf. regulation 13.

Following the amendments adopted by the diplomatic conference mentioned above, the validity period for the trading certificate of compliance required pursuant to Directive 1997/70/EC Article 7 is now set out by regulations 7 and 13 of the Torremolinos Convention, which stipulates that the validity period shall not exceed five years. The NMA has taken advantage of this scope of

action, which has made it possible to extend the validity period of the trading certificate of compliance for fishing vessel from four to up to five years.

As a consequence of the amendments to section 27 first paragraph (b) of the Certificate Regulations, amendments have also been laid down to subparagraph c) and subparagraph d) (ii) of the same section. These amendments are required in order to determine the time of the renewal survey and intermediate survey, respectively, for the trading certificate of compliance for fishing vessel.

To section 29 Supervision for Certificate of Compliance for ships used in oil recovery operations
As a consequence of the amendment to section 27 first paragraph (b), it is also necessary to amend section 29 of the Certificate Regulations.

Additional text has been added to section 29 first paragraph (b), stipulating that the renewal survey for trading certificate of compliance for fishing vessel shall take place every five years. The text of the first paragraph (d) has been moved up to subparagraph c), and subparagraph d) has subsequently been repealed.

Consequences for the industry

Safe manning documents

A safe manning document sets out the minimum safe manning for the specific vessel, i.e. the manning that is necessary in order to safeguard the vessel and the persons on board, and is a measure to ensure the safety on board. The safe manning document could make it easier for the company and the master to keep an overview of the minimum safe manning for the vessel.

The company must apply for and propose the minimum manning (“safe manning”). The application shall be submitted to the NMA. The preparation and justification of the application for safe manning document will lead to more work for the company, often over a few days. If the company and safety representatives agree on the size and qualifications of the manning, the time for preparing the application could be shorter.

Medical certificates

The advantage of an international requirement for medical certificate for fishers is that it could help discover health conditions that could endanger the person concerned or others on board. A certificate attesting that a person is medically fit is issued by approved seafarer’s doctors and costs between 1,500 and 2,000 NOK. Most fishing vessels to which this ILO 188 requirement will apply, are already subject to a requirement for valid medical certificate. This amendment will therefore have limited administrative and financial consequences.

As for the provisions on exemption in section 2 second paragraph of the Health Regulations, please note the following:

Subparagraph a): No fishing vessels used for commercial purposes of less than 100 gross tonnage have as per today a length (L) of 24 metres or more. The specification set out in section 2 second paragraph (a) of the Health Regulations therefore entail neither stricter requirements nor increased costs for persons working on board fishing vessels of less than 100 gross tonnage.

Subparagraph b): As a result of the Convention’s requirement for medical certificate for persons working on board fishing vessel of 24 metres in length (L) and upwards, the exception for fishing vessels certified for Fjord fishing, Inshore fishing or Bank fishing I must be limited to fishing vessels of less than 24 metres in length (L). Nevertheless, this limitation only results in a further nine existing fishing vessels being subject to the requirement for medical certificate pursuant to the regulatory amendments.

Certificate for working and living conditions and supervision

ILO 188 Article 41 requires that fishing vessels of 24 metres in length (L) and over that normally remain at sea for more than three days shall carry a valid document on board declaring compliance with the ILO 188 requirements for working and living conditions. The certificate requirement also applies to fishing vessels irrespective of length which normally remain at sea for more than three days, when such vessels normally navigate at a distance exceeding 200 nautical miles from the base line or navigate beyond the outer edge of the continental shelf, when this extends more than 200 nautical miles from the base line. The NMA has laid down that fishing vessels of less than 15 metres in overall length are not allowed to operate beyond 200 nautical miles from the base line, cf. section 47 of the Regulations of 22 November 2017 No. 1404 on fishing vessels of less than 15 metres in overall length.

Based on experience from MLC inspections, the NMA assumes that the affected companies on average will have increased costs of around 1,370 NOK annually as a result of the implementation of the requirement for certificate for working and living conditions on fishing vessels.

Supervision for certificate for working and living conditions on board fishing vessels does not trigger new fees for the company.

Extended validity of the trading certificate from four to five years

As the validity period of the trading certificate of compliance for fishing vessels has now been changed from four to five years, this amendment contributes to a considerable and important simplification of the certification regime that applies to the Norwegian fleet.

The prolonged validity from four to five years will in addition to saving resources also mean that the company's overall expenses related to statutory supervision could be slightly reduced.

Requirements for accommodation

ILO 188 sets requirements for accommodation and accommodation details that have not been specifically laid down in current law. Some of the requirements apply only to fishing vessels constructed on or after 1 January 2019, while other less essential requirements will apply to both new fishing vessels and vessels constructed prior to the regulatory amendments laid down by this Circular and will enter into force on 16 November 2017. By virtue of the regulatory development the last seventeen years¹⁰ and the appurtenant certification regime applicable to fishing vessels, it is the NMA's assessment that Norwegian fishing vessels are generally of a good standard.

Pursuant to current law, fishing vessels with 15 or more crew members shall have hospital accommodation on board, cf. section 11-13 of Regulations 2000/660. ILO 188 requires that fishing vessels of 45 metres in length (L) and over shall also have hospital accommodation, cf. ILO 188 Article 28, cf. Annex III item 67. The additional costs of furnishing a cabin to satisfy the requirements for hospital accommodation will be in the range of NOK 50,000 to 200,000. The requirement for hospital accommodation will be applicable to vessels of 45 metres in length (L) and upwards constructed on or after 1 January 2019.

The amendments to Regulations 2000/660 will therefore only entail limited increased costs for the industry.

Consequences for the authorities

¹⁰ Regulations of 13 June 2000 No. 660 on fishing vessels of 15 metres or more

In addition to the regulatory work required to honour the commitments laid down in ILO 188, the obligations pursuant to the Convention will generate additional work for the NMA in the form of determination of safe manning documents for fishing vessels. On 19 June 2017, there were 308 registered fishing vessels of more than 24 metres with a valid trading certificate of compliance for fishing vessel. These vessels are distributed between 240 companies. There is a general tendency towards so-called structuring within the fishery industry, which entails more quotas to be distributed between fewer vessels, and a tendency towards building larger vessels. This also means that there are a number of vessels in the Ship Register which will not maintain valid certificates and that the number of safe manning documents could be somewhat lower than the stipulated 308.

By itself, the extended validity of the trading certificate of compliance for fishing vessel from four to five years will save resources for the NMA. On the other hand, the supervision related to the new certificate for working and living conditions on fishing vessels will require new resources or a rearrangement of existing resources.

Yours faithfully,

Olav Akselsen
Director General of Shipping and Navigation

Bjørn E. Pedersen
Head of Department

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

Attachments:

Regulations on hours of work and rest on board fishing vessels
Corrected Regulation concerning amendments to Regulations on work by and placement of young people on Norwegian ships and amendments to other regulations
IMO's crew list form