

## **ILO 188, the Convention concerning work in the fishing sector (Work in Fishing Convention, WFC) entered into force on 16 November 2017.**

The purpose of the Convention is to ensure that the employees in the fishing sector are provided with better conditions with regard to working environment, health and safety at sea, and that sick and injured fishermen get treatment ashore. The Convention also includes rules on sufficient rest, protection through written working agreements and social security protection equivalent to that of other workers.

The Convention applies to all fishing vessels irrespective of size, and compliance will be checked during supervision.

Most of the provisions of the ILO 188 were already implemented in Norwegian legislation, so the Convention will have less impact on Norwegian fishers than on fishers in many other places in the world. The new legislation will nevertheless have consequences on some levels:

### **The validity of the Trading Certificate of Compliance for fishing vessel is extended from four to five years:**

Simultaneously with the introduction of ILO 188 in Norwegian legislation, the validity of the Trading Certificate of Compliance for fishing vessel is extended from 4 to 5 years.

A trading certificate of compliance for fishing vessel, which is initially issued on or after 16 November 2017, i.e. on or after the time of the entry into force of ILO 188, will have a period of validity of five years. For fishing vessels with a trading certificate issued before November 2017, the five-year period will start at the first renewal of the certificate on or after 16 November 2017. For instance, if the renewal survey of an existing trading certificate takes place during May 2018 and the expiry date of the existing certificate is 1 June 2018, the trading certificate will upon renewal be valid until 1 June 2023, provided that the trading certificate is not withdrawn for any reason prior to this date. An intermediate survey shall be carried out between the second and third anniversary date of the certificate.

### **Requirement for certificate for working and living conditions (WFC Certificate) for fishing vessels of 15 metres in overall length and upwards.**

Fishing vessels shall have a certificate for working and living conditions when the vessel is of:

- a) 15 metres in overall length and upwards certified for Deepsea fishing I or greater trade area;
- b) 24 metres in length (L) and upwards certified for Bank fishing I or greater trade area;

Fishing vessels required to have certificate for working and living conditions shall be subject to the following inspections in order to demonstrate that the vessel complies with the requirements for working and living conditions on board fishing vessels:

- a) initial inspection before the certificate may be issued for the first time;
- b) renewal inspection every five years;

Supervision in order to be issued with a certificate for working and living conditions for fishing vessels must be requested. The inspection of existing vessels will be carried out in connection with the first renewal of the trading certificate, and must be requested together with the renewal survey.

The required certificate shall demonstrate compliance with the requirements implementing ILO Convention No. 188 on working conditions in the fisheries sector, and shall be issued with a validity of up to five years when the trading certificate is initially issued or is renewed on or after 16 November 2017.

### **Requirement for safe manning document on fishing vessels of 24 metres or above:**

For fishing vessels the keel of which is laid on or after 16 November 2017, the company shall submit a proposal for safe manning within 1 July 2018.

For fishing vessels the keel of which was laid before 16 November 2017, the company shall submit a proposal for safe manning within the vessel's first certificate renewal after 1 July 2018, and no later than 1 January 2020.

### **Requirement for crew list on all fishing vessels irrespective of size**

Every fishing vessel irrespective of size shall carry a crew list showing the persons who are working on board at any time. The crew list may be in an electronic format.

The crew list shall be updated at the latest in connection with the ship leaving port, and the company **shall have a copy of the crew list ashore**. The copy may be in an electronic format.

The Norwegian Maritime Authority, recognised classification societies and approved companies may require a copy of the crew list to be handed over.

### **Requirement for valid medical certificate**

The main rule is that any person working on board a fishing vessel shall have a valid medical certificate.

Fishers who have turned 18 years of age are nevertheless exempt from the requirement for valid medical certificate when they are working on board fishing vessels which are normally at sea for continuous periods of no more than three days, provided that:

- a) such vessels have an overall length of up to 15 metres; or
- b) such vessels are of less than 24 metres in length and are registered with a gross tonnage of less than 100.

The exception also applies to fishers working on board fishing vessels of less than 24 metres in length (L) when such vessels are certified for Bank fishing I or lesser trade area.

A medical certificate issued in accordance with the medical certificate requirements of any EEA county satisfies the requirements for medical certificate when the medical certificate is issued in the employee's home country or most recent EEA country of residence.

If the home country or country of residence does not have any requirements for a special medical examination for fishers, a declaration from the country's competent authority shall be accepted as a valid medical certificate if the competent authority has attested compliance with the health requirements in ILO 188.

The medical certificate shall be renewed if the fisher changes position on board to a capacity with stricter health requirements.

The company or the master shall demand a new medical certificate if it is likely that a fisher no longer satisfies the regulatory health requirements.

If the company or master demands a new medical certificate, the demand shall be presented in writing and the ground therefore shall be stated. The reason may for instance be that the fisher has been unfit for work for more than 30 days, has been admitted to hospital or is starting on new medication.

Any fisher who has reason to believe that he or she no longer satisfies the health requirements shall inform the master or the company and consult a seafarer's doctor.

### **Work by and placement of young people on Norwegian fishing vessels**

Persons who have not turned 18 years of age are covered by the term 'young people'. ILO 188 Article 9 sets out that the minimum age for work on board a fishing vessel is 16 years. This age limit coincides with a normal time lapse for the primary education in Norway.

Nevertheless, ILO 188 also sets out that the competent authority may authorise persons of the age of 15 who are subject to compulsory schooling to perform light work on board fishing vessels during school holidays. The working hours shall not exceed 7 hours per day or 35 hours per week.

Moreover, young people of the age of 15 who are not subject to compulsory schooling may perform work that forms part of vocational training in fishing, when the combined hours of work and school do not exceed 8 hours a day and 40 hours a week.

Young people of the age of 14 may also, under certain conditions, be placed for work on board fishing vessels engaged on domestic voyages as part of schooling or practical vocational orientation. The preconditions for this is that the placement cannot be to the detriment of their health or development or that the placement is part of secondary education work experience schemes or part of the practical vocational orientation programmes arranged by the Norwegian Labour and Welfare Administration (NAV).

- Young people who are subject to compulsory schooling must be ensured sufficient sleep, and shall therefore not work between the hours of 2000 and 0600. Young people who are not subject to compulsory schooling shall not work between the hours of 2200 and 0600 or between the hours of 2300 and 0700.
- Young people shall have a rest break of at least 30 minutes, where possible as one continuous break, if the daily working hours exceed 4 1/2 hours.
- Young people shall have a minimum weekly rest period of 36 consecutive hours. The rest period shall as far as possible include Sunday or a public holiday.
- The working hours shall not prevent young people from going to school to receive the education they need, or prevent them from taking advantage of such schooling.
- Young people shall not be used for overtime work. This means that the provisions on working hours set out in section 3 first paragraph of the Regulations on hours of work and rest on board fishing vessels are the actual working hours.

Work on board fishing vessels that forms part of approved apprenticeship contracts or upper secondary education is not covered by the limitations in working hours that have briefly been discussed above<sup>1</sup>.

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<sup>1</sup> Cf. section 4 first paragraph second sentence of the Regulations of 25 April 2002 No. 423 on work by and placement of young people on Norwegian ships

### **Requirements for hours of work and rest**

- The normal working hours on board fishing vessels shall not exceed 48 hours per week, calculated as an average over a period not exceeding 12 months.
- The hours of rest shall not be less than 10 hours in any 24-hour period, and 77 hours in any 168-hour period.
- The 10 hours of rest in any 24-hour period may be divided into two periods, one of which shall be at least 6 hours in length. The interval between two periods of rest shall not exceed 14 hours.

The master may require the employees to perform any hours of work necessary for the immediate safety of the ship, persons on board, tools or cargo, or for coming to the aid of other vessels or persons in distress at sea.

The provisions on hours of work and rest do not apply to fishers who work alone on board their own vessel.

### **Requirements when using recruitment and placement services on ships**

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).

It is sufficient that the employer can document having used recruitment and placement services that are based in Norway or in another country which has ratified the MLC, 2000 or ILO Convention No. 188, for the recruitment and placement of employees on fishing vessels.

### **Requirement that employment agreements and documentation of hours of work and rest shall be available on board**

The employee's employment agreement and collective bargaining agreements forming part of the employment agreement shall be available on board. The same applies to a copy of contracts for other persons working on board. Documentation of hours of work and rest shall be available on board.

The requirement for carrying employment agreements on board does not apply where the owner of the fishing vessel is alone on board his or her own vessel.

### **Amended requirements for certain construction-related matters and equipment on fishing vessels of 15 metres in overall length and upwards**

#### Headroom:

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.

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.

#### Air conditioning system:

For vessels constructed on or after 1 January 2019, there is a new requirement for air conditioning system in recreation rooms, the bridge, the radio room and any centralised machinery control room if the vessel is engaged in fishing between 40 degrees N and 40 degrees S. Vessels constructed before 2019 are

only required to have air conditioning system in recreation rooms if they are engaged in fishing in these areas.

#### Sleeping rooms:

There can be no openings to sleeping rooms from machinery spaces, cargo spaces, galleys, common laundry rooms, common drying rooms, common bathrooms, common toilets and mess rooms. Storerooms have now been added to this list. The limitation is made applicable to new vessels constructed on or after 1 January 2019.

Berths shall be provided with a reading light in addition to the normal lighting in the room.

#### Mess rooms, day rooms, etc.:

The mess room shall be equipped with tableware and cutlery for all persons on board. Everyone on board shall have access to recreational facilities, equipment and services.

#### Hospital accommodation:

The provision setting out which vessels are required to have hospital accommodation has been amended, so that vessels constructed after 1 January 2019 shall have hospital accommodation if the vessel is of more than 45 metres in length (L). Existing vessels are required to have hospital accommodation if the crew consists of 15 persons or more, irrespective of size.

#### Diet etc.:

The diet on board shall be adapted to the needs of the fishers, and the religious and cultural practices of the persons on board the fishing vessel shall be taken into account. The preparation and service of food shall be carried out with proper consideration to hygiene.