STATUTORY INSTRUMENTS

1972 No. 919

MERCHANT SHIPPING

MASTERS AND SEAMEN

The Merchant Shipping (Crew Agreements, Lists of Crew and Discharge of Seamen) (Fishing Vessels) Regulations 1972

Made - - -	20*th June* 1972
Laid before Parliament	29*th June* 1972
Coming into Operation	1*st January* 1973

The Secretary of State after consulting with the organisations referred to in section 99(2) of the Merchant Shipping Act 1970(**a**), in exercise of his powers under sections 1(5) and (7), 2, 3, 68(2) and (5), 69 and 95 of that Act, and paragraph 1 of Schedule 2 to that Act, and of all other powers enabling him in that behalf, hereby makes the following Regulations:—

Citation, commencement and interpretation

1.—(1) These Regulations may be cited as the Merchant Shipping (Crew Agreements, Lists of Crew and Discharge of Seamen) (Fishing Vessels) Regulations 1972 and shall come into operation on 1st January 1973.

(2) In these Regulations—

"the Act" means the Merchant Shipping Act 1970;

"fishing vessel" means a ship which is a fishing vessel registered in the United Kingdom under Part I or under Part IV of the Merchant Shipping Act 1894(**b**); and

"length" means the length of a fishing vessel entered in its certificate of registry.

(3) The Interpretation Act 1889(**c**) shall apply to the interpretation of these Regulations as it applies to the interpretation of an Act of Parliament.

PART I

ENGAGEMENT OF SEAMEN

Exemptions from requirements of section 1 (crew agreements)

2. The requirements of section 1 of the Act relating to crew agreements shall not apply to—

(*a*) a fishing vessel of less than 80 feet in length;

(*b*) a member of the naval, military or air forces of the Crown or of any service administered by the Defence Council, when acting as such a member.

(**a**) 1970 c. 36.
(**b**) 1894 c. 60.
(**c**) 1889 c. 63.

Places where crew agreements are to be made

3. A crew agreement relating to a fishing vessel and an agreement with any person which is added to those contained in such a crew agreement, shall be made only—

(*a*) on board a fishing vessel to which the crew agreement relates; or

(*b*) at an office of—

(i) the employer or his agent; or

(ii) a fishermen's registration scheme; or

(iii) a superintendent or proper officer;

provided that, if a superintendent or proper officer is satisfied that, in any particular case, it is not practicable to make the agreement at any of the foregoing places, an agreement may be made at such place as the superintendent or proper officer may approve.

Carrying of copy of crew agreement in fishing vessels

4.—(1) A fishing vessel required under section 1 of the Act to carry a crew agreement may, in the case of an agreement which relates both to that and to other fishing vessels and which is kept at an address in the United Kingdom, comply with that requirement by carrying a copy of the agreement certified in the manner provided by paragraph (2) of this regulation.

(2) A copy of a crew agreement carried in a fishing vessel in accordance with paragraph (1) of this regulation shall bear a certificate signed by the master certifying that it is a true copy of the crew agreement and specifying the address in the United Kingdom at which the crew agreement is kept and the name of the person by whom it is so kept.

Delivery of crew agreement and copies

5.—(1) The employer shall, within 2 days of the date on which a crew agreement is made (or, if it is not practicable within that period, as soon as practicable thereafter) deliver a copy of that agreement to a superintendent or proper officer for the place where the crew agreement was made.

(2) The employer shall, within 7 days after the last person remaining employed under a crew agreement ceases to be employed under that agreement, deliver the crew agreement to a superintendent or proper officer for the place where the fishing vessel was when that person ceased to be so employed.

Display of crew agreement

6. The master of a fishing vessel shall cause—

(*a*) a copy of any crew agreement relating to the fishing vessel; or

(*b*) an extract containing the terms of that agreement applicable

(i) to all seamen employed under it, and

(ii) to each description of seamen so employed;

to be posted in some conspicuous place on board the fishing vessel where it can be read by the persons employed under the agreement and he shall cause it to be kept so posted and legible so long as any seaman is employed in the fishing vessel under the crew agreement.

Supply and production of copy documents

7. Upon a seaman making a demand of his employer or of the master, the employer or the master, as the case may be, shall within a reasonable time and when the fishing vessel is not at sea—

(*a*) cause to be supplied to him a copy of the crew agreement under which he is employed or such extracts therefrom as are necessary to show the terms on which he is employed; and

(*b*) cause to be made available to him a copy of any document referred to in the agreement.

Production of documents to officer of customs and excise

8. The master shall, on demand by an officer of customs and excise, produce to him—

(*a*) any crew agreement, or the copy of any crew agreement carried in the fishing vessel in pursuance of regulation 4; and

(*b*) any certificate evidencing an exemption granted by the Secretary of State from the requirements of section 1 of the Act (which relates to crew agreements) with respect to the fishing vessel or any person in it.

Offences under Part I

9.—(1) A person who fails to comply with an obligation imposed on him by or under regulation 5 or 7 shall be guilty of an offence.

(2) An employer, or any person on his behalf, who makes a crew agreement with a seaman in contravention of the provisions of regulation 3 shall be guilty of an offence.

(3) A master who fails to comply with an obligation imposed on him by or under regulation 6, 7 or 8 shall be guilty of an offence.

(4) Any offence under this regulation shall be punishable on summary conviction with a fine not exceeding £50.

PART II

LIST OF CREW

Interpretation

10. In this Part of these Regulations—

"seaman" includes the master of a fishing vessel; and

except where the context otherwise requires, references to the employment of a seaman include references to engagement; and references to discharge include references to termination of engagement.

Exemption of certain fishing vessels from the requirements of section 69 of the Act (lists of crew)

11. The duty imposed by section 69 of the Act to make and maintain a list of the crew shall not apply in relation to a fishing vessel of a length of less than 40 feet.

List of crew contained in crew agreement relating to a fishing vessel

12. A list of crew may be contained in the same document as a crew agreement relating to one fishing vessel only and any particulars entered in the crew agreement shall be treated as forming part of the particulars entered in the list.

Particulars to be specified in lists of crew

13.—(1) Subject to paragraphs (2) and (3) of this regulation, a list of crew shall contain the following particulars—

(*a*) (i) the name of the fishing vessel, its port of registry and official number;

(ii) the name of the owner of the fishing vessel and his address; and

(iii) the number of the certificate evidencing an exemption granted by the Secretary of State from the requirements of section 1 of the Act (which relates to crew agreements) with respect to the fishing vessel or any person in it;

(*b*) in respect of every seaman from time to time on board the fishing vessel, whether or not he is employed under a crew agreement—

(i) his name;

(ii) his address;

(iii) the date and place of his birth;

(iv) the name of the ship (whether a fishing vessel or not) registered in the United Kingdom in which he was last employed, and, if he was discharged from that ship more than 12 months before he became employed in the fishing vessel to which the list of crew relates, the year in which he was so discharged;

(v) the capacity in which he is employed in the fishing vessel;

(vi) the grade and number of any certificate of competency held by him;

(vii) the date on which he went on board the fishing vessel to commence his employment in it;

(viii) the date on and place at which he left the fishing vessel and, if he left on discharge, the reason for his discharge;

(ix) if he is left behind otherwise than on discharge, the date and place of and the reason (if known to the master) for this being done; and

(x) the name and relationship of his next of kin and the address of his next of kin, if different from that of the seaman.

(2) A list of crew which relates to seamen employed under a crew agreement need contain only the particulars referred to in paragraph (1)(*a*)(i) of this regulation and, in respect of each seaman, the particulars referred to in (i), (ii), (iii), (v), (vii) and (viii) of paragraph (1)(*b*) if the remaining particulars referred to in paragraph (1) are contained in the crew agreement.

(3) In respect of a member of the naval, military or air forces of the Crown or of any service administered by the Defence Council when acting as such a member, a list of crew need contain only the particulars referred to in (i), (ii), (vii) and (viii) of paragraph (1)(*b*) of this regulation.

Delivery of copies of lists of crew relating to fishing vessels

14. Within 2 days after (or, if it is not practicable within that period, as soon as practicable after) a list of crew relating to a fishing vessel of a length of 55 feet or more is first made, the master shall deliver to a superintendent or proper officer a copy of the list of crew endorsed by him with a certificate that it is a true copy.

Copies of list of crew relating to fishing vessels

15.—(1) A copy of every list of crew (including all changes in it notified to the owner of the fishing vessel) shall be maintained by the owner at an address in the United Kingdom.

(2) The master shall, as soon as practicable and in any event within 3 days of any change being made in the list of crew, notify the change to the owner of the fishing vessel.

(3) In this regulation "owner of the fishing vessel" means—

(*a*) the person registered as the managing owner, ship's husband or manager; or

(*b*) if there is no such person, the owner of the fishing vessel.

16. When any person having in his possession the copy of a list of crew required to be maintained under regulation 15 has reason to believe that the fishing vessel to which it relates has been lost or abandoned, he shall immediately deliver the copy of the list to a superintendent.

17. A person having in his possession a copy of a list of crew relating to a fishing vessel of a length of less than 55 feet shall deliver it on demand to a superintendent.

Duration of lists of crew relating to fishing vessels

18. A list of crew shall remain in force—

(*a*) if any person is employed in the fishing vessel under a crew agreement, until all the persons employed under that agreement in that fishing vessel have been discharged; and

(*b*) in any other case, until the fishing vessel first calls at its port of destination in the United Kingdom after the end of the period of 6 months beginning with the date when the first entry relating to a seaman is made in the list or until the expiration of 30 days after the end of that period, whichever shall first occur.

Delivery of lists of crew relating to fishing vessels

19. The master shall, within 2 days after a list of crew relating to a fishing vessel of a length of 55 feet or more has ceased to be in force or, if it is not practicable within that period, as soon as practicable thereafter, deliver the list to a superintendent or proper officer for the place where the fishing vessel is when the list of crew ceases to be in force.

Production of lists of crew relating to fishing vessels

20. A master shall, on demand, produce to the Registrar General of Shipping and Seamen, a superintendent or proper officer or an officer of customs and excise the list of crew required to be maintained in the fishing vessel.

Offences under Part II

21.—(1) A master who fails to comply with an obligation imposed on him by or under regulation 14, 15(2), 19 or 20 shall be guilty of an offence.

(2) A person who fails to comply with an obligation imposed on him by regulation 15(1), 16 or 17 shall be guilty of an offence.

(3) Any offence under this regulation shall be punishable on summary conviction with a fine not exceeding £20.

PART III

DISCHARGE OF SEAMEN

Notice of discharge outside the United Kingdom

22.—(1) The employer of the seaman or the master of the fishing vessel in which he is employed shall, not less than 24 hours before a seaman is to be discharged from the fishing vessel outside the United Kingdom (or, if it is not practicable within that period, as soon as practicable thereafter) give a notice of discharge to a proper officer for the place where the seaman is to be discharged.

(2) A notice of discharge shall contain the following particulars—

(*a*) the name of the fishing vessel, its port of registry and official number;

(*b*) the name of the seaman to be discharged;

(*c*) the place, date and time of the seaman's discharge;

(*d*) the capacity in which the seaman is employed in the fishing vessel;

(*e*) whether or not the consent of a proper officer to the seaman's discharge is required;

(*f*) if the consent of a proper officer is not required, which of the reasons specified in regulation 23(1) is the reason for that consent not being required.

Discharge outside the United Kingdom

23.—(1) A seaman employed in a fishing vessel shall not be discharged from the fishing vessel outside the United Kingdom without the consent of a proper officer, except where—

(*a*) the seaman is employed under an agreement for one or more voyages and he is to be discharged either at the end of that voyage or of the last of such voyages; or

(*b*) the seaman is employed under an agreement for a specified period and he is to be discharged at the end of that period; or

(*c*) the seaman and the master agree (notwithstanding anything in the agreement under which the seaman is employed) that he should be discharged at the place and at the time when he is discharged; or

(*d*) it appears to the master that it is not practicable without unreasonably delaying the fishing vessel, to obtain the consent of a proper officer to a seaman's discharge and that either

(i) in the interests of safety or for the preservation of good order and discipline on board the fishing vessel it is necessary that the seaman should be discharged; or

(ii) the seaman is incapable of performing his duties by reason of illness or injury and is in urgent need of medical or surgical attention which cannot be provided on board the fishing vessel.

(2) Where a proper officer consents to the discharge of a seaman outside the United Kingdom, he shall, if it is practicable for him to do so, make and sign an entry in the fishing vessel's official log book recording his consent; but if he does not make and sign an entry, the master shall make and sign an entry recording that such consent has been given.

Procedure on discharge

24.—(1) Where a seaman is present when he is discharged—

(*a*) his employer shall ensure that the seaman is discharged in the presence of—

(i) the employer himself, or

(ii) the master, or

(iii) a person authorised in that behalf by the employer or the master;

(*b*) the person mentioned in paragraph (1)(*a*) of this regulation in whose presence the seaman is being discharged shall—

(i) make and sign an entry in the official log book recording the place and date of the seaman's discharge; and

(ii) make and sign an entry in the crew agreement or, if there is a list of crew separate from a crew agreement, in the list of crew, recording the place and date of, and the reason for, the seaman's discharge;

(*c*) the seaman shall sign the entry in the crew agreement and list of crew referred to in paragraph (1)(*b*)(ii) of this regulation.

(2) If the seaman is not present when he is discharged, the master, or a person authorised in that behalf by the master, shall make the entries referred to in paragraph (1)(*b*) of this regulation.

(3) If a seaman employed in a fishing vessel of more than 55 feet in length so requests, his employer or the master shall give to him, either on discharge or at the time his wages are paid to him, a certificate of discharge containing the following particulars:—

(*a*) the name of the fishing vessel, its port of registry, official number, length and the type and horse-power of its main engine;

(*b*) the name of the seaman, the capacity in which he was employed in the fishing vessel, the date on which he began to be so employed and the date on which he is discharged.

Offences under Part III

25.—(1) Any person (including a master)—

(*a*) who discharges a seaman in contravention of any of the provisions of regulation 23(1); or

(*b*) who fails to comply with an obligation imposed on him by or under paragraph (1)(*a*), (1)(*b*)(ii) or (3) of regulation 24; or

(*c*) who fails to comply with an obligation imposed on him by regulation 24(2) in relation to an entry in a crew agreement or in a list of crew; or

(*d*) who fails to make an entry in an official log book required by regulation 24(1)(*b*)(i); or

(*e*) who fails to comply with an obligation imposed on him by regulation 24(2) in relation to an entry in an official log book;

shall be guilty of an offence.

(2) A master who fails to make an entry in an official log book required by regulation 23(2) shall be guilty of an offence.

(3) An employer of a seaman who fails to comply with an obligation imposed on him by regulation 24(1)(*a*) shall be guilty of an offence.

(4) Where a notice of discharge of a seaman is not given in accordance with regulation 22(1), the employer of the seaman or the master of the fishing vessel shall be guilty of an offence.

(5) A seaman who fails to comply with an obligation imposed on him by regulation 24(1)(*c*) shall be guilty of an offence.

(6) Any offence under this regulation shall be punishable on summary conviction—

(*a*) in the case of an offence referred to in paragraph (1)(*a*), (1)(*b*), (1)(*c*) or (3) or (4) of this regulation, with a fine not exceeding £100;

(*b*) in the case of an offence referred to in paragraph (1)(*d*), (1)(*e*) or (2) of this regulation, with a fine not exceeding £20; and

(*c*) in the case of an offence referred to in paragraph (5) of this regulation, with a fine not exceeding £10.

Michael Noble,
Minister for Trade,
Department of Trade and Industry.

20th June 1972.

EXPLANATORY NOTE

(*This Note is not part of the Regulations.*)

These Regulations, which are made under the Merchant Shipping Act 1970, apply to fishing vessels registered in the United Kingdom.

Part I provides for the exemption from the requirements of section 1 of that Act (which relates to crew agreements) of the fishing vessels and seamen described in regulation 2, for the place where crew agreements are to be made and for other matters relating to crew agreements.

Part II provides for the exemption from the requirements of section 69 of that Act (which relates to lists of crew) of the fishing vessels described in regulation 11, for the particulars to be specified in lists of crew and for other matters relating to such lists.

Part III provides for the procedure to be followed in connection with the discharge of seamen from fishing vessels, for the giving of notice of discharge outside the United Kingdom and for the recording of discharges.

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