Changes to legislation: *The Fishing Vessels (Codes of Practice) Regulations 2017 is up to date with all changes known to be in force on or before 05 February 2020. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes*

STATUTORY INSTRUMENTS

2017 No. 943

MERCHANT SHIPPING

The Fishing Vessels (Codes of Practice) Regulations 2017

Made - - - -	*26th September 2017*
Laid before Parliament	*29th September 2017*
Coming into force - -	*23rd October 2017*

The Secretary of State is a Minister designated for the purposes of section 2(2) of the European Communities Act 1972 [F1] in relation to measures relating to the safety of ships and the health and safety of persons on them [F2] and in relation to measures relating to maritime transport [F3].

The Secretary of State makes the following Regulations in exercise of the powers conferred by sections 43(1), 85(1), (3) and (5) to (7), 86(1) and (2), 121, 122 and 307 of the Merchant Shipping Act 1995 [F4] and by section 2(2) of the European Communities Act 1972.

The Secretary of State has consulted such persons as the Secretary of State considers will be affected by the exercise of powers in this instrument in accordance with section 86(4) of the Merchant Shipping Act 1995. The Secretary of State has also consulted organisations in the United Kingdom appearing to the Secretary of State to be representative of persons who will be affected by these Regulations, in accordance with section 306(4)(a) of that Act.

F1 1972 c. 68. Section 2(2) was amended by section 27 of the Legislative and Regulatory Reform Act 2006 (c.51) and by section 3 of, and Part I of the Schedule to, the European Union (Amendment) Act 2008 (c.7).

F2 S.I. 1993/595.

F3 S.I. 1994/757.

F4 1995 c. 21. Sections 85 and 86 were amended by the Merchant Shipping and Maritime Security Act 1997 (c. 28), **section 8** and Schedule 7. There are other amendments which are not relevant to this instrument.

PART 1

General matters

Citation and commencement

1. These Regulations may be cited as the Fishing Vessels (Codes of Practice) Regulations 2017 and come into force on 23rd October 2017.

Interpretation

2.—(1) In these Regulations—

"the Act" means the Merchant Shipping Act 1995;

"certificate of compliance" means a certificate issued in accordance with regulation 4;

"fixed permanent structure" —

(a) includes any part of the hull of a vessel which is capable of being detached but which is fixed in place during the normal operation of the vessel; but

(b) does not include functional arrangements such as boarding platforms, bowsprits, diving platforms, outboard motors, outdrives, propulsion machinery, pulpits, rubbing strips and fenders, rudders, safety rails, steering gear and sternhead fittings;

"flag State", in relation to a non-United Kingdom fishing vessel, means the State whose flag the vessel is entitled to fly;

"large fishing vessel" means a fishing vessel of at least 24 metres overall registered length;

"length overall" means the distance between the foreside of the foremost fixed permanent structure and the after side of the aftermost fixed permanent structure;

"Maritime and Coastguard Agency" means the Maritime and Coastguard Agency, an executive agency of the Department for Transport;

"medium fishing vessel" means a fishing vessel of at least 15 metres length overall, but less than 24 metres registered length;

"Merchant Shipping Notice" means a Notice described as such and issued by the Maritime and Coastguard Agency, and any reference to any particular Merchant Shipping Notice includes a reference to a Merchant Shipping Notice amending or replacing that Notice which is considered by the Secretary of State to be relevant from time to time [F5];

"non-United Kingdom fishing vessel" means a fishing vessel which is not registered in the United Kingdom;

"owner" means the registered owner of a vessel, unless that vessel—

(a) has been chartered by demise, or

(b) is managed, either wholly or in part, by a person other than the registered owner under the terms of a management agreement,

in which case the owner means the demise charterer or other person managing the vessel as the case may be;

"registered length" means the measurement which—

(a) is recorded as the registered length in the vessel's certificate of registry issued under the Merchant Shipping (Registration of Ships) Regulations 1993 [F6], in the case of a United Kingdom fishing vessel;

(b) is recorded as the registered length in any equivalent certificate issued in the case of a vessel registered outside the United Kingdom; or

(c) would be recorded as the registered length if the vessel were a United Kingdom fishing vessel, in the case of an unregistered vessel;

"relevant Merchant Shipping Notice", in relation to a fishing vessel, means the Merchant Shipping Notice containing the applicable Code of Practice for that vessel;

"small fishing vessel" means a fishing vessel which is not a medium or large fishing vessel;

"Torremolinos Protocol" means the Torremolinos Protocol of 1993 relating to the Torremolinos International Convention for the Safety of Fishing Vessels 1977 [F7]; and

"United Kingdom fishing vessel" means a fishing vessel which is registered in the United Kingdom.

(2) For the purposes of these Regulations the "applicable Code of Practice" —

(a) in the case of small fishing vessels is the "Code of Practice for the Safety of Fishing Vessels of less than 15m Length Overall", incorporated in Merchant Shipping Notice MSN 1871(F);

(b) in the case of medium fishing vessels is the "Code of Practice for the Construction and Use of Fishing Vessels of 15m Length Overall to less than 24m Registered Length", incorporated in Merchant Shipping Notice MSN 1872(F); and

(c) in the case of large fishing vessels is the "Code of Practice for the Construction and Use of Fishing Vessels of 24m Registered Length and Over", incorporated in Merchant Shipping Notice MSN 1873(F).

F5 Merchant Shipping Notices can be accessed at https://www.gov.uk/government/collections/merchant-shipping-notices-msns.

F6 S.I. 1993/3138, to which there are amendments not relevant to these Regulations.

F7 The Torremolinos Protocol and the Convention may be obtained from the International Maritime Organization at www.imo.org/en.

Application

3.—(1) These Regulations (except regulations 13 (certification of non-United Kingdom fishing vessels) and 14 (inspection of non-United Kingdom fishing vessels)) apply to United Kingdom fishing vessels.

(1) Regulations 13 and 14 apply to non-United Kingdom fishing vessels, with the exception of small fishing vessels, while in United Kingdom waters.

PART 2

All Fishing Vessels

Certificate of compliance

4.—(1) The Secretary of State must issue a certificate of compliance in respect of a United Kingdom fishing vessel in the following circumstances—

(a) a surveyor of ships, following a survey (in the case of a large or medium fishing vessel) or inspection (in the case of a small fishing vessel) as set out in the relevant Merchant

Shipping Notice, is satisfied that the vessel complies with the applicable Code of Practice; or

(b) an exemption granted by the Secretary of State under regulation 18 (exemptions) applies to the vessel, and a surveyor of ships, having carried out a survey or inspection as set out in the relevant Merchant Shipping Notice, is satisfied that the vessel complies with—

(i) the applicable Code of Practice, other than to the extent of that exemption; and

(ii) any conditions and limitations subject to which the exemption has been granted; and

(c) in either case, that any fees prescribed in regulations made under section 302 of the Act (fees) have been paid [F8].

(2) A certificate of compliance must—

(a) have a period of validity not exceeding that set out in the relevant Merchant Shipping Notice;

(b) in the case of a large fishing vessel, be supplemented by a record of equipment; and

(c) be in the format set out in the relevant Merchant Shipping Notice.

(3) In this regulation, "record of equipment" means a document containing the information required by Council Directive 97/70/EC of 11th December 1997 setting up a harmonised safety regime for fishing vessels of 24 metres in length and over [F9] and by the Torremolinos Protocol.

F8 See the Merchant Shipping (Fees) Regulations 2006, S.I. 2006/2055. Relevant amending instruments are S.I. 2006/3225, 2011/3056, 2015/315, 2015/410, 2015/782 and 2016/1025.

F9 OJ L034, 09.02.1998 p.0001-0029.

Prohibition on proceeding on any voyage without a certificate

5.—(1) Subject to paragraph (2), a United Kingdom fishing vessel must not proceed on a voyage unless—

(a) the Secretary of State has issued a certificate of compliance in respect of that vessel;

(b) that certificate of compliance is valid at the time of the voyage; and

(c) the vessel continues to comply with the applicable Code of Practice.

(2) Where the certificate of compliance issued in respect of a fishing vessel has been suspended under regulation 8 (suspension of certificates), paragraph (1) does not prohibit that vessel from returning to port.

(3) Contravention of paragraph (1) is an offence by both the owner and skipper of the fishing vessel.

(4) A person guilty of an offence under paragraph (1) is liable—

(a) on summary conviction—

(i) in England and Wales to a fine; or

(ii) in Scotland or Northern Ireland to a fine not exceeding the statutory maximum; or

(b) on conviction on indictment, to imprisonment for a term not exceeding two years, or to a fine, or both.

(5) It is a defence for a person charged under paragraph (3) to show that all reasonable precautions to avoid committing the offence were taken.

Accidents and defects

6.—(1) The owner and skipper of a United Kingdom fishing vessel must ensure that whenever an accident occurs to a fishing vessel or a defect is discovered, either of which affects the safety of the vessel or the efficiency or completeness of its life-saving appliances or other equipment—

(a) it is reported at the earliest opportunity to the Secretary of State, and

(b) if the fishing vessel is in a port outside the United Kingdom it is also reported to the appropriate authorities of the country in which the port is situated.

(2) If a report is made under paragraph (1), the Secretary of State must determine whether an inspection or survey is necessary, and if so, require one to be carried out.

(3) If the inspection or survey referred to in paragraph (2) shows that repairs are required, or if any important repairs or renewals are otherwise made to the ship or its equipment, a further inspection or survey must be carried out on the completion of those repairs or renewals

Obligation to notify of proposed changes to vessel

7.—(1) The owner of a United Kingdom fishing vessel must notify the Secretary of State at the earliest opportunity of the details of any proposal to alter or modify the structure of that vessel, remove or reposition engines or machinery or change the mode of fishing.

(2) The Secretary of State must determine whether an inspection or survey is necessary, and if so, require one to be carried out.

(3) If the inspection or survey referred to in paragraph (2) shows that a further inspection or survey is required after the completion of the changes to the vessel, a further inspection or survey must be carried out.

Suspension of certificates

8.—(1) If the Secretary of State determines that an inspection or survey of a fishing vessel is required under regulation 6 or 7, the certificate of compliance may be suspended until that inspection or survey is carried out.

(2) If a surveyor of ships is satisfied, following a survey of the fishing vessel (or, in the case of a small fishing vessel, an inspection) as set out in the relevant Merchant Shipping Notice, that the vessel complies with the applicable Code of Practice, the Secretary of State must lift the suspension.

Cancellation of certificates of compliance etc.

9.—(1) The Secretary of State may, by giving notice in writing to the owner of a fishing vessel, cancel a certificate of compliance issued in respect of the vessel where it has reason to believe that that certificate—

(a) was issued on the basis of false or erroneous information,

(b) has been intentionally altered (other than by or on the instructions of the Secretary of State), or

(c) has been used by, loaned to, or allowed to be used by a person to whom the certificate was not issued.

(2) The Secretary of State may by notice in writing require that a certificate of compliance which—

(a) has expired,

(b) has ceased to be valid because the vessel no longer complies with the applicable Code of Practice, or