Council Directive 93/103/EC of 23 November 1993 concerning the minimum safety and health requirements for work on board fishing vessels (thirteenth individual Directive within the meaning of Article 16 (1) of Directive 89/391/EEC)

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concerning the minimum safety and health requirements for work on board fishing vessels (thirteenth individual Directive within the meaning of Article 16 (1) of Directive 89/391/EEC)

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community, and in particular Article 118a thereof,

Having regard to the proposal from the Commission[(1)], drawn up after consultation with the Advisory Committee on Safety, Hygiene and Health Protection at Work,

In cooperation with the European Parliament[(2)],

Having regard to the opinion of the Economic and Social Committee[(3)],

Whereas, in its resolution of 21 December 1987 on safety, hygiene and health at work[(4)], the Council noted the Commission's intention of submitting to it minimum requirements concerning the organization of the safety and health of workers at work;

Whereas occupational safety and health measures should be introduced as part of the various Community measures for the fisheries sector;

Whereas compliance with the minimum requirements for ensuring a better level of safety and health on board fishing vessels is essential to ensure the safety and health of the workers concerned;

Whereas, because of the specific and particularly difficult working and living conditions on board fishing vessels, the incidence of fatal accidents among workers engaged in sea fishing is very high;

Whereas, on 15 April 1988, the European Parliament adopted a resolution recognizing the importance of the preventive aspects of safety at work on board fishing vessels;

Whereas, for the safety and health of the workers concerned, prominence should be given to locating fishing vessels in an emergency, particularly through the use of new technologies;

Whereas this Directive is an individual Directive within the meaning of Article 16 (1) of Council Directive 89/391/EEC of 12 June 1989 on the introduction of measures to encourage improvements in the safety and health of workers at work[(5)]; whereas, therefore, the provisions thereof are fully applicable to work on board fishing vessels, without prejudice to more stringent and/or specific provisions contained in this Directive;

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Whereas the individual Directives already adopted in the field of safety and health at work apply, unless otherwise specified, to sea fishing; whereas, therefore, it may in some cases be necessary to specify the particular characteristics of this activity in order to ensure that the individual Directives are applied in the best way;

Whereas Council Directive 92/29/EEC of 31 March 1992 on the minimum safety and health requirements for improved medical treatment on board vessels[6] is applicable in full to the sea fishing industry;

Whereas this Directive constitutes concrete progress towards the achievement of the social dimension of the internal market,

HAS ADOPTED THIS DIRECTIVE:

Article 1

Object

1 This Directive, which is the thirteenth individual Directive within the meaning of Article 16 (1) of Directive 89/391/EEC, lays down minimum safety and health requirements applicable to work on board the vessels defined in Article 2.

2 The provisions of Directive 89/391/EEC are fully applicable to the field referred to in paragraph 1, without prejudice to more stringent and/or specific provisions contained in this Directive.

Article 2

Definitions

For the purposes of this Directive, the following terms shall have the meanings hereby assigned to them:

(a) *fishing vessel*: any vessel flying the flag of a Member State or registered under the plenary jurisdiction of a Member State used for commercial purposes either for catching or catching and processing fish or other living resources from the sea;

(b) *new fishing vessel*: a fishing vessel with a length between perpendiculars of 15 metres or over and for which, on or after the date specified in the first subparagraph of Article 13 (1):

  (i) the building or major conversion contract is placed; or

  (ii) the building or major conversion contract has been placed before the date specified in the first subparagraph of Article 13 (1) and which is delivered three or more years after that date; or

  (iii) in the absence of a building contract:
    — the keel is laid, or
    — construction identifiable with a specific vessel begins, or
    — assembly has commenced, comprising at least 50 tonnes or 1 % of the estimated mass of all structural material, whichever is the lesser;

(c) *existing fishing vessel*: any fishing vessel with a length between perpendiculars of 18 metres or over and which is not a new fishing vessel;

(d) *vessel*: any new or existing fishing vessel;

(e) *worker*: any person carrying out an occupation on board a vessel, including trainees and apprentices but excluding shore personnel carrying out work on board a vessel at the quayside and port pilots;

(f) *owner*: the registered owner of a vessel, unless that vessel has been chartered by demise or is managed, either wholly or in part, by a natural or legal person other than the registered owner under the terms of a management agreement; in that case, the owner shall be construed as the demise charterer or natural or legal person managing the vessel, as appropriate;

(g) *skipper*: the worker who, in accordance with national legislation and/or practice, commands the vessel or has responsibility for it.

Article 3

General provisions

1 Member States shall take the measures necessary to see that:

a owners ensure that their vessels are used without endangering the safety and health of workers, in particular in foreseeable meterological conditions, without prejudice to the skipper's responsibility;

b account is taken of any hazards faced by the rest of the workers when Article 8 (4) of Directive 89/391/EEC is applied;

c any occurrences at sea which affect or could affect the safety and health of the workers on board are described in a detailed report to be forwarded to the relevant competent authorities and are recorded carefully and in detail in the ship's log, where the national regulations or legislation in force require such a log to be kept on the type of vessel in question or, in the absence of such a log, in a document required for the purpose.

2 Member States shall take the measures necessary to ensure that, as regards compliance with this Directive, vessels are subject to regular checks by authorities specifically empowered to carry out such checks.

Certain checks concerning compliance with this Directive may be carried out at sea.

Article 4

New fishing vessels

New fishing vessels must comply with the minimum safety and health requirements laid down in Annex I at the latest by the date referred to in the first subparagraph of Article 13 (1).

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Article 5

Existing fishing vessels

Existing fishing vessels must comply with the minimum safety and health requirements laid down in Annex II within seven years of the date referred to in the first subparagraph of Article 13. (1).

Article 6

Extensive repairs, conversions and alterations

Where vessels undergo extensive repairs, conversions and alterations on or after the date specified in the first subparagraph of Article 13 (1), such extensive repairs, conversions and alterations must comply with the relevant minimum requirements laid down in Annex I.

Article 7

Equipment and maintenance

1 For the protection of the safety and health of workers, Member States shall take the measures necessary to ensure that, without prejudice to the skipper's responsibility, owners:

a ensure that the vessels and their fittings and equipment, particularly those referred to in Annexes I and II, are technically maintained, and that any defects found which are likely to affect the safety and health of workers are rectified as quickly as possible;

b take measures to ensure that the vessels and all fittings and equipment are cleaned regularly in order to maintain an appropriate standard of hygiene;

c keep on board the vessel an adequate quantity of suitable emergency and survival equipment in good working order;

d take account of the minimum safety and health requirements concerning life-saving and survival equipment given in Annex III;

e without prejudice to the provisions of Council Directive 89/656/EEC of 30 November 1989 on the minimum health and safety requirements for the use by workers of personal protective equipment at the workplace (third individual Directive within the meaning of Article 16 (1) of Directive 89/391/EEC)[7], take account of the personal protective equipment specifications given in Annex IV to this Directive.

2 Member States shall take all necessary measures to ensure that, for the protection of the safety and health of workers, the owner supplies the skipper with the means needed to enable him to fulfill the obligations imposed upon him by this Directive,

Article 8

Information for workers

1 Without prejudice to the provisions of Article 10 of Directive 89/391/EEC, workers and/or their representatives shall be informed of all measures to be taken regarding safety and health on board vessels.

2 The information must be comprehensible to the workers concerned.

Article 9

Training of workers

1 Without prejudice to Article 12 of Directive 89/39I/EEC, workers shall be given suitable training, in particular in the form of precise, comprehensible instructions, on safety and health on board vessels and on accident prevention in particular.

2 The training referred to in paragraph 1 shall cover in particular fire fighting, the use of life-saving and survival equipment and, for the workers concerned, the use of fishing gear and hauling equipment and the use of various types of signs including hand signals.

Such training shall be subject to the necessary updating where this is required by changes in the activities on board.

Article 10

Detailed training of persons likely to command a vessel

Without prejudice to Article 5 (3) of Directive 92/29/EEC, any person likely to command a vessel shall be given detailed training on:

(a) the prevention of occupational illness and accidents on board and the steps to be taken in event of accident;

(b) stability and maintenance of the vessel under all foreseeable conditions of loading and during fishing operations;

(c) radio navigation and communication, including procedures.

Article 11

Consultation and participation of workers

The consultation of workers and/or their representatives and their participation in discussions on the matters covered by this Directive and its Annexes shall take place in accordance with Article 11 of Directive 89/391/EEC.

Article 12

Adaptation of the Annexes

Purely technical adaptations of the Annexes to take account of:

— the adoption of directives in the field of technical harmonization and standardization concerning certain aspects of safety and health on board vessels,

and/or

— technical progress, changes in the international regulations or specifications and new findings in the field of safety and health on board vessels,