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## Legislation

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### Contents

#### I *Acts whose publication is obligatory*

- ★ 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) ..... 1
- ★ Council Directive 93/104/EC of 23 November 1993 concerning certain aspects of the organization of working time ..... 18

## I

*(Acts whose publication is obligatory)*

**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)**

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;

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;

(1) OJ No C 337, 31. 12. 1991, p. 21;

OJ No C 311, 27. 11. 1992, p. 21.

(2) OJ No C 241, 21. 9. 1992, p. 106;

and Decision of 27 October 1993 (not yet published in the Official Journal).

(3) OJ No C 169, 6. 7. 1992, p. 46.

(4) OJ No C 28, 3. 2. 1988, p. 1.

(5) OJ No L 183, 29. 6. 1989, p. 1.

(6) OJ No L 113, 30. 4. 1992, p. 19.

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 meteorological 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).

*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) <sup>(1)</sup>, 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 fulfil 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 89/391/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:

<sup>(1)</sup> OJ L 393, 30. 12. 1989, p. 18.

- (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,

shall be adopted in accordance with the procedure laid down in Article 17 of Directive 89/391/EEC.

#### *Article 13*

##### **Final provisions**

1. Member States shall bring into force the laws, regulations and administrative provisions necessary to

comply with this Directive by 23 November 1995. They shall forthwith inform the Commission thereof.

When Member States adopt these measures, they shall contain a reference to this Directive or shall be accompanied by such reference on the occasion of their official publication. The methods of making such a reference shall be laid down by the Member States.

2. Member States shall communicate to the Commission the texts of the provisions of national law which they have already adopted or adopt in the field covered by this Directive.

3. Member States shall report to the Commission every four years on the practical implementation of the provisions of this Directive, indicating the points of view of employers and workers.

The Commission shall inform the European Parliament, the Council, the Economic and Social Committee and the Advisory Committee on Safety, Hygiene and Health Protection at Work thereof.

4. The Commission shall periodically submit to the European Parliament, the Council and the Economic and Social Committee a report on the implementation of this Directive, taking into account paragraphs 1, 2 and 3.

#### *Article 14*

This Directive is addressed to the Member States.

Done at Brussels, 23 November 1993.

*For the Council*  
*The President*  
M. SMET

## ANNEX I

## MINIMUM SAFETY AND HEALTH REQUIREMENTS FOR NEW FISHING VESSELS

(Articles 4, 6 and 7 (1) (a))

**Preliminary note**

The obligations laid down in this Annex apply whenever required by the features of the workplace, the activity, the circumstances or a risk on board a new fishing vessel.

**1. Seaworthiness and stability**

- 1.1. The vessel must be maintained in a seaworthy condition and be properly equipped appropriate to its purpose and use.
- 1.2. Information on the vessel's stability must be available on board and must be accessible to the men on watch.
- 1.3. All vessels must be sufficiently stable when intact in the conditions of service for which they are intended.

The skipper must take the precautionary measures necessary to maintain adequate stability of the vessel.

Instructions supplied concerning the vessel's stability must be strictly observed.

**2. Mechanical and electrical installations**

- 2.1. Electrical installations must be designed and constructed so as not to present any danger and so as to ensure:
  - protection for the crew and vessel from electrical hazards,
  - the proper functioning of all equipment necessary to maintain the vessel in normal operational and living conditions without recourse to an emergency power supply,
  - the operation of electrical equipment essential for safety in all emergencies.
- 2.2. An emergency electrical power source must be provided.

Except in open vessels, it must be located outside the engine room and must, in all cases, be so arranged as to ensure in the event of fire or other failure of the main electrical installation, simultaneous functioning for at least three hours of:

- the internal communication system, fire detectors and emergency signals,
- the navigation lights and emergency lighting,
- the radio installation,
- the emergency electrical fire pump where present.

If the emergency electrical power source is an accumulator battery and the main electrical power source fails, the accumulator battery must be automatically connected to the emergency electrical switchboard and supply power for an uninterrupted period of three hours to the systems referred to in the first, second and third indents of the second subparagraph.

The main electrical switchboard and the emergency switchboard must, to the extent possible, be installed in such a way that they cannot be exposed simultaneously to water or fire.

- 2.3. Switchboards should be clearly marked; fuse boxes and fuse holders should be checked at regular intervals to ensure that the correct rating of fuse is being used.
- 2.4. Compartments housing electrical storage batteries must be adequately ventilated.

- 2.5. Electronic aids to navigation should be tested frequently and well maintained.
- 2.6. All equipment used in hoisting should be tested and examined at regular intervals.
- 2.7. All parts of hauling gear, hoisting gear and related equipment should be maintained in good repair and working order.
- 2.8. Where refrigeration plants and compressed air systems are installed they should be well maintained and examined at regular intervals.
- 2.9. Cooking and domestic appliances using heavy gases should be used only in well ventilated spaces and care should be taken to avoid any dangerous accumulation of gas.  
  
Cylinders containing flammable and other dangerous gases should be clearly marked as to their contents and stowed on open decks.  
  
All valves, pressure regulators and pipes leading from the cylinders should be protected against damage.

### 3. Radio installation

The radio installation must permit contact at all times with at least one coastal or land-based station, taking into account the normal conditions for propagation of radio waves.

### 4. Emergency routes and exits

- 4.1. Routes and exits which can be used as emergency routes and exits must be unobstructed and easily accessible at all times and lead out as directly as possible to the open deck or to a safe area and thence to the survival craft so that workers can evacuate their workstations or living areas quickly and as safely as possible.
- 4.2. The number, distribution and dimensions of the routes and exits which can be used as emergency routes and exits must depend on the use, equipment and dimensions of workplaces and living areas and on the maximum potential number of persons present.  
  
Exits which can be used as emergency exits and which are closed must be immediately and readily operable in an emergency by any worker or by rescue teams.
- 4.3. Emergency doors and other emergency exits must be adequately weatherproof and watertight for their location and particular function.  
  
Emergency doors and other emergency exits must be as fire-resistant as the bulkheads.
- 4.4. Emergency routes and exits must be indicated by signs in accordance with national provisions transposing Directive 92/58/EEC (1).  
  
Such signs must be placed at appropriate points and be made to last.
- 4.5. Escape routes and facilities and emergency exits requiring illumination must be provided with emergency lighting of adequate intensity in case the lighting fails.

### 5. Fire detection and fire fighting

- 5.1. Depending on the dimensions and use of the vessel, the equipment it contains, the physical and chemical properties of the substances present and the maximum potential number of persons present, living quarters and enclosed workplaces, including the engine-room and the fish hold if necessary,

(1) OJ No L 245, 26. 8. 1992, p. 23.

must be equipped with appropriate fire-fighting equipment and, as necessary, with fire detectors and alarm systems.

- 5.2. Fire-fighting equipment must always be kept in its proper location, maintained in good working order, and be available for immediate use.

Workers must be familiar with the locations of fire-fighting equipment, the way it works and how it should be used.

The presence of extinguishers and other portable fire-fighting equipment must always be checked before the vessel gets under way.

- 5.3. Manually-operated fire-fighting equipment must be easily accessible and simple to use and must be indicated by signs in accordance with the national provisions transposing Directive 92/58/EEC.

Such signs must be placed at appropriate points and be made to last.

- 5.4. Fire-detection and alarm systems should be regularly tested and well maintained.

- 5.5. Fire-fighting drills shall be carried out at regular intervals.

**6. Ventilation of enclosed workplaces**

Steps must be taken to see that there is sufficient fresh air in enclosed workplaces, having regard to the working methods used and the physical demands placed on the workers.

If a mechanical ventilation system is used, it must be maintained in good condition.

**7. Temperature of working areas**

- 7.1. The temperature in working areas must be adequate for the human body during the hours of working, having regard to the work methods used, the physical demands placed on the workers and the actual or potential weather conditions in the area in which the vessel operates.

- 7.2. The temperature in living quarters, sanitary facilities, canteens and first-aid rooms must, where those areas exist, be appropriate to the particular purpose of such areas.

**8. Natural and artificial lighting of workplaces**

- 8.1. Workplaces must as far as possible receive sufficient natural light and be equipped with artificial lighting suitable for the fishing operations in hand, without placing workers' safety and health in danger or jeopardizing other vessels.

- 8.2. Installations for the lighting of working areas, stairs, ladders and passageways must be placed in such a way that the type of lighting provided poses no risk of accident to workers and no hindrance to the navigation of the vessel.

- 8.3. Workplaces in which workers are especially exposed to risks in the event of failure of artificial lighting must be provided with emergency lighting of adequate intensity.

- 8.4. Emergency lighting must be maintained in an efficient operating condition and be tested at regular intervals.

**9. Decks, bulkheads and deckheads**

- 9.1. Spaces accessible to workers must be non-slip or anti-slip or be provided with devices to prevent falls and kept free of obstacles as far as possible.

9.2. Workplaces containing workstations must be adequately soundproofed and insulated, bearing in mind the type of tasks involved and the physical activity of workers.

9.3. The surface of decks, bulkheads and deckheads in working areas must be such that they can be cleaned or refurbished to an appropriate standard of hygiene.

#### 10. Doors

10.1. Means should be provided so that doors can at all times be operated from the inside without special equipment.

The doors must be operable from either side when workplaces are in use.

10.2. Doors, and in particular sliding doors, where such have to be used, must function as safely as possible for the workers, especially in adverse weather and sea conditions.

#### 11. Traffic routes — danger areas

11.1. Passageways, trunks, the outer part of deckhouses and all traffic routes in general must be equipped with guard rails, grab rails and lifelines or other means of ensuring the safety of workers in the course of activities on board.

11.2. If there is a risk that workers may fall through openings in the deck, or from one deck to another, adequate protection should be provided wherever possible.

Where guard rails provide such protection, they must be at least one metre high.

11.3. Access to installations above the deck for operations or maintenance purposes must be such as to ensure workers' safety.

Guard rails or similar protective devices of appropriate height must be provided to prevent falls.

11.4. Bulwarks or other means provided to prevent persons falling overboard must be maintained in an efficient condition.

Bulwarks must be fitted with freeing ports or other similar devices to enable water to drain away quickly.

11.5. On stern trawlers with ramps, the upper part of the ramp must be fitted with a gate or other means of securing it of the same height as the bulwarks or other adjacent means, to protect workers from the risk of falling into the ramp.

This gate or other device must be easily opened and closed, preferably by remote control, and must be open only for casting the net or for hauling it in.

#### 12. Layout of workstations

12.1. Working areas must be kept clear and, as far as possible, be protected from the sea and provide adequate protection for workers against falling on the vessel or falling overboard.

Handling areas must be sufficiently spacious, in terms of both height and surface area.

12.2. If the engines are controlled from the engine room, they must be controlled from a separate area, soundproofed and insulated from the engine room *per se* and accessible without entering the latter.

The navigating bridge is considered to be an area that meets the requirements of the first subparagraph.

- 12.3. The controls for the hauling gear must be installed in an area sufficiently large to enable operators to work unhindered.

The hauling gear must also have appropriate safety devices for emergencies, including emergency stop facilities.

- 12.4. The hauling gear operator must have an adequate view of the hauling gear and the workers at work.

If the hauling gear is controlled from the bridge, the operator should also have a clear view of the workers at work, either directly or via any other suitable medium.

- 12.5. A reliable communications system must be used between the bridge and the working deck.

- 12.6. A sharp look out should always be maintained and the crew warned of the imminent danger of heavy oncoming seas during fishing operations or when other work is being done on deck.

- 12.7. Contact with bare ropes and warps and with moving parts of the equipment must be minimized by installing protective devices.

- 12.8. Controls must be installed for moving masses, particularly on trawlers:

- devices to immobilize the otter boards,
- devices to control the swinging motion of the codend.

### 13. Living quarters

- 13.1. The location, structure, soundproofing, means of insulation and layout of the workers' living quarters and facilities, where these exist, and means of access thereto should be such as to provide adequate protection against weather and sea, vibration, noise and unpleasant odours from other parts of the vessel likely to disturb the workers during their period of rest.

Where the design, dimensions and/or purpose of the vessel allow, the workers' living quarters must be located so as to minimize the effects of motion and acceleration.

Appropriate measures should be taken as far as possible to protect non-smokers from discomfort caused by tobacco smoke.

- 13.2. The workers' living quarters should be properly ventilated to ensure a constant supply of fresh air and prevent condensation.

Appropriate lighting must be provided in the living quarters, with:

- adequate normal general lighting,
- reduced general lighting to avoid disturbing workers who are resting, and
- local lighting in each berth.

- 13.3. The galley and mess, where these exist, should be of adequate size, well lit and ventilated and easy to clean.

Refrigerators or other low-temperature food-storage equipment must be provided.

### 14. Sanitary facilities

- 14.1. On vessels with living quarters, shower facilities with hot and cold running water, wash-basins and toilets must be properly equipped and installed and the respective areas must be properly ventilated.

14.2. Every worker must have the use of a place where he can keep his clothes.

15. **First aid**

On all vessels first-aid equipment must be available which fulfils the requirements in Annex II to Directive 92/29/EEC.

16. **Accommodation ladders and gangways**

An accommodation ladder, gangway or other similar equipment providing an appropriate, safe means of boarding the vessel must be available.

17. **Noise**

All appropriate technical measures must be taken to reduce the noise level at workplaces and in the living quarters as far as possible, taking into account the size of the vessel.

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## ANNEX II

## MINIMUM SAFETY AND HEALTH REQUIREMENTS FOR EXISTING FISHING VESSELS

(Articles 5 and 7 (1) (a))

## Preliminary note

The obligations laid down in this Annex apply, in so far as the structural characteristics of the existing fishing vessel permit, whenever required by the features of the workplace, the activity, the circumstances or a risk on board an existing fishing vessel.

## 1. Seaworthiness and stability

- 1.1. The vessel must be maintained in a seaworthy condition and be properly equipped appropriate to its purpose and use.
- 1.2. Where it exists, information on the vessel's stability must be available on board and must be accessible to the men on watch.
- 1.3. All vessels must be sufficiently stable when intact in the conditions of service for which they are intended.

The skipper must take the necessary precautionary measures in order to maintain adequate stability of the vessel.

Instructions supplied concerning the vessel's stability must be strictly observed.

## 2. Mechanical and electrical installations

- 2.1. Electrical installations must be designed and constructed so as not to present any danger and so as to ensure:
  - protection for the crew and vessel from electrical risks,
  - the proper functioning of all equipment necessary to maintain the vessel in normal operational and living conditions without recourse to an emergency power supply,
  - the operation of electrical equipment essential for safety in all emergencies.
- 2.2. An emergency electrical power source must be provided.

Except in open vessels, the emergency electrical power source must be located outside the engine room and in all cases be so arranged as to ensure, in the event of fire or other failure of the main electrical installation, simultaneous functioning for at least three hours of:

- the internal communication system, fire detectors and emergency signals,
- the navigation lights and emergency lighting,
- the radio installation,
- the emergency electrical fire pump where present.

If the emergency electrical power source is an accumulator battery and the main electrical power source fails, the accumulator battery must be automatically connected to the emergency electrical switchboard and supply power for an uninterrupted period of three hours to the systems referred to in the first, second and third indents of the second subparagraph.

The main electrical switchboard and the emergency switchboard must, to the extent possible, be installed in such a way that they cannot be exposed simultaneously to water or fire.

- 2.3. Switchboards should be clearly marked; fuse boxes and fuse holders should be checked at regular intervals to ensure that the correct rating of fuse is being used.

- 2.4. Compartments housing electrical storage batteries must be adequately ventilated.
- 2.5. Electronic aids to navigation should be tested frequently and well maintained.
- 2.6. All equipment used in hoisting should be tested and examined at regular intervals.
- 2.7. All parts of hauling gear, hoisting gear and related equipment should be maintained in good repair and working order.
- 2.8. Where refrigeration plants and compressed air systems are installed, they should be well maintained and examined at regular intervals.
- 2.9. Cooking and domestic appliances using heavy gases should be used only in well ventilated spaces and care should be taken to avoid any dangerous accumulation of gas.

Cylinders containing flammable and other dangerous gases should be clearly marked as to their contents and stowed on open decks.

All valves, pressure regulators and pipes leading from the cylinders should be protected against damage.

### 3. Radio installation

The radio installation must permit contact at all times with at least one coastal or land-based station, taking into account the normal conditions for propagation of radio waves.

### 4. Emergency routes and exits

- 4.1. Routes and exits which can be used as emergency routes and exits must be unobstructed and easily accessible at all times and lead out as directly as possible to the open deck or to a safe area and thence to the survival craft so that workers can evacuate their workstations or living areas quickly and as safely as possible.

- 4.2. The number, distribution and dimensions of the routes and exits which can be used as emergency routes and exits must depend on the use, equipment and dimensions of workplaces and living areas and on the maximum potential number of persons present.

Exits which can be used as emergency exits and which are closed must be immediately and readily operable in an emergency by any worker or by rescue teams.

- 4.3. Emergency routes and exits must be indicated by signs in accordance with national provisions transposing Directive 92/58/EEC.

Such signs must be placed at appropriate points and be made to last.

- 4.4. Escape routes and facilities and emergency exits requiring illumination must be provided with emergency lighting of adequate intensity in case the lighting fails.

### 5. Fire detection and fire fighting

- 5.1. Depending on the dimensions and use of the vessel, the equipment it contains, the physical and chemical properties of the substances present and the maximum potential number of persons present, living quarters and enclosed workplaces, including the engine-room and the fish hold if necessary, must be equipped with appropriate fire-fighting equipment and, as necessary, with fire detectors and alarm systems.

- 5.2. Fire-fighting equipment must always be kept in its proper location, maintained in good working order, and be available for immediate use.

Workers must be familiar with the location of fire-fighting equipment, the way it works and how it should be used.

The presence of extinguishers and other portable fire-fighting equipment must always be checked before the vessel gets under way.

- 5.3. Manually-operated fire-fighting equipment must be easily accessible and simple to use and must be indicated by signs in accordance with the national provisions transposing Directive 92/58/EEC.

Such signs must be placed at appropriate points and be made to last.

- 5.4. Fire-detection and alarm systems should be regularly tested and well maintained.

- 5.5. Fire-fighting drills shall be carried out at regular intervals.

#### 6. Ventilation of enclosed workplaces

Steps must be taken to see that there is sufficient fresh air in enclosed workplaces, having regard to the working methods used and the physical demands placed on the workers.

If a mechanical ventilation system is used, it must be maintained in good condition.

#### 7. Temperature of working areas

- 7.1. The temperature in working areas must be adequate for the human body during the hours of working, having regard to the work methods used, the physical demands placed on the workers and the actual or potential weather conditions in the area in which the vessel operates.

- 7.2. The temperature in living quarters, sanitary facilities, canteens and first-aid rooms must, where those areas exist, be appropriate to the particular purpose of such areas.

#### 8. Natural and artificial lighting of workplaces

- 8.1. Workplaces must as far as possible receive sufficient natural light and be equipped with artificial lighting suitable for the operations in hand, without placing workers' safety and health in danger or jeopardizing the navigation of other vessels.

- 8.2. Lighting installations in working areas, stairs, ladders and passageways must be placed in such a way that the type of lighting envisaged poses no risk of accident to workers and no hindrance to the navigation of the vessel.

- 8.3. Workplaces in which workers are especially exposed to risks in the event of failure of artificial lighting must be provided with emergency lighting of adequate intensity.

- 8.4. Emergency lighting must be maintained in an efficient operating condition and be tested at regular intervals.

#### 9. Decks, bulkheads and deckheads

- 9.1. Spaces accessible to workers must be non-slip or anti-slip or be provided with devices to prevent falls and kept free of obstacles as far as possible.

- 9.2. Workplaces containing workstations must, in so far as possible, be adequately soundproofed and insulated, bearing in mind the type of tasks involved and the physical activity of workers.

- 9.3. The surface of decks, bulkheads and deckheads in working areas must be such that they can be cleaned or refurbished to an appropriate standard of hygiene.

**10. Doors**

- 10.1. Means should be provided so that doors can at all times be operated from the inside without special equipment.

The doors must be operable from either side when workplaces are in use.

- 10.2. Doors and in particular sliding doors, where such have to be used, must function as safely as possible for the workers, especially in adverse weather and sea conditions.

**11. Traffic routes — danger areas**

- 11.1. Passageways, trunks, the outer part of deckhouses and all traffic routes in general must be equipped with guard rails, grab rails and lifelines or other means of ensuring the safety of workers in the course of activities on board.

- 11.2. If there is a risk that workers may fall through openings in the deck, or from one deck to another, adequate protection should be provided wherever possible.

- 11.3. Access to installations above the deck for operation or maintenance purposes must be such as to ensure workers' safety.

Guard rails or similar protective devices of appropriate height must be provided to prevent falls.

- 11.4. Bulwarks or other means provided to prevent persons falling overboard must be maintained in an efficient condition.

Bulwarks must be fitted with freeing ports or other similar devices to enable water to drain away quickly.

- 11.5. On stern trawlers with ramps, the ramp must be fitted with a gate or other means of securing it of the same height as the bulwarks or other adjacent means, to protect workers from the risk of falling into the ramp.

This gate or other device must be easily opened and closed and must be open only for casting the net or for hauling it in.

**12. Layout of workstations**

- 12.1. Working areas must be kept clear and, as far as possible, be protected from the sea and provide adequate protection for workers against falling on the vessel or falling overboard.

Handling areas must be sufficiently spacious, in terms of both height and surface area.

- 12.2. If the engines are controlled from the engine room, they must be controlled from a separate area, soundproofed and insulated from the engine room *per se* and accessible without passing through the latter.

The navigating bridge is considered to be an area that meets the requirements of the first subparagraph.

- 12.3. The controls for the hauling gear must be installed in an area sufficiently large to enable operators to work unhindered.

The hauling gear must also have appropriate safety devices for emergencies, including emergency stop facilities.

- 12.4. The hauling gear operator must have an adequate view of the hauling gear and the workers at work.

If the hauling gear is controlled from the bridge, the operator should also have a clear view of the workers at work, either directly or via any other suitable medium.

- 12.5. A reliable communications system must be used between the bridge and the working deck.

- 12.6. A sharp look out should always be maintained and the crew warned of the imminent danger of heavy oncoming seas during fishing operations or when other work is being done on deck.

- 12.7. Contact with bare ropes and warps and with moving parts of the equipment must be minimized by installing protective devices.

- 12.8. Controls must be installed for moving masses, particularly on trawlers:

- devices to immobilize the otter boards,
- devices to control the swinging motion of the codend.

### 13. Living quarters

- 13.1. The workers' living quarters, where they exist, must be such as to minimize noise, vibration, the effects of motion and acceleration, and unpleasant odours from other parts of the vessel.

Appropriate lighting must be installed in the living quarters.

- 13.2. The galley and mess, where they exist, should be of adequate size, adequately lit and ventilated and easy to clean.

Refrigerators or other low-temperature food-storage equipment must be provided.

### 14. Sanitary facilities

On vessels with living quarters, toilets, wash-basins and, if possible, a shower must be installed and the respective areas must be properly ventilated.

### 15. First aid

On all vessels first-aid equipment must be available which fulfils the requirements in Annex II to Directive 92/29/EEC.

### 16. Accommodation ladders and gangways

An accommodation ladder, gangway or other similar equipment providing an appropriate, safe means of boarding the vessel must be available.

## ANNEX III

## MINIMUM SAFETY AND HEALTH REQUIREMENTS FOR CONCERNING LIFE-SAVING AND SURVIVAL EQUIPMENT

(Articles 7 (1) (d))

## Preliminary note

The obligations laid down in this Annex apply wherever required by the features of the workplace, the activity, the circumstances or a risk on board a vessel.

1. Vessels must carry adequate life-saving and survival equipment, including adequate means of recovering workers from the water, and radio rescue, in particular an emergency position-indicating radio beacon with a hydrostatic release mechanism, taking account of the number of persons on board and the area in which the vessel is operating.
2. All items of life-saving and survival equipment must be kept in their proper locations, maintained in good working order and be available for immediate use.

They must be checked by the workers before the vessel leaves port and during the voyage.

3. The life-saving and survival equipment must be inspected at regular intervals.
4. All workers must receive proper training and appropriate instructions in anticipation of an emergency.
5. If the length of the vessel exceeds 45 metres or if five or more workers are carried, a muster list must be provided with clear instructions for each worker which must be followed in case of emergency.
6. Musters of workers for survival drill should be carried out each month in port and/or at sea.

These drills must ensure that the workers thoroughly understand and are exercised in the duties which they have to perform with respect to the handling and operation of all life-saving and survival equipment.

Workers must be trained in the setting up and operation of the portable radio equipment, where carried.

## ANNEX IV

## MINIMUM SAFETY AND HEALTH REQUIREMENTS CONCERNING PERSONAL PROTECTIVE EQUIPMENT

(Articles 7 (1) (e))

**Preliminary note**

The obligations laid down in this Annex apply whenever required by the features of the workplace, the activity, the circumstances or a risk on board a vessel.

1. Where risks to the safety and health of workers cannot be prevented or sufficiently limited by collective or technical means of protection, they must be provided with personal protective equipment.
  2. Personal protective equipment in the form of clothing or worn over clothing must be in bright colours, contrasting with the marine environment and clearly visible.
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## COUNCIL DIRECTIVE 93/104/EC

of 23 November 1993

concerning certain aspects of the organization of working time

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 <sup>(1)</sup>,

In cooperation with the European Parliament <sup>(2)</sup>,

Having regard to the opinion of the Economic and Social Committee <sup>(3)</sup>,

Whereas Article 118a of the Treaty provides that the Council shall adopt, by means of directives, minimum requirements for encouraging improvements, especially in the working environment, to ensure a better level of protection of the safety and health of workers;

Whereas, under the terms of that Article, those directives are to avoid imposing administrative, financial and legal constraints in a way which would hold back the creation and development of small and medium-sized undertakings;

Whereas the provisions 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 <sup>(4)</sup> are fully applicable to the areas covered by this Directive without prejudice to more stringent and/or specific provisions contained therein;

Whereas the Community Charter of the Fundamental Social Rights of Workers, adopted at the meeting of the European Council held at Strasbourg on 9 December 1989 by the Heads of State or of Government of 11 Member States, and in particular points 7, first subparagraph, 8 and 19, first subparagraph, thereof, declared that:

'7. The completion of the internal market must lead to an improvement in the living and working conditions of workers in the European Community. This process must result from an approximation of

these conditions while the improvement is being maintained, as regards in particular the duration and organization of working time and forms of employment other than open-ended contracts, such as fixed-term contracts, part-time working, temporary work and seasonal work.

8. Every worker in the European Community shall have a right to a weekly rest period and to annual paid leave, the duration of which must be progressively harmonized in accordance with national practices.

19. Every worker must enjoy satisfactory health and safety conditions in his working environment. Appropriate measures must be taken in order to achieve further harmonization of conditions in this area while maintaining the improvements made.';

Whereas the improvement of workers' safety, hygiene and health at work is an objective which should not be subordinated to purely economic considerations;

Whereas this Directive is a practical contribution towards creating the social dimension of the internal market;

Whereas laying down minimum requirements with regard to the organization of working time is likely to improve the working conditions of workers in the Community;

Whereas, in order to ensure the safety and health of Community workers, the latter must be granted minimum daily, weekly and annual periods of rest and adequate breaks; whereas it is also necessary in this context to place a maximum limit on weekly working hours;

Whereas account should be taken of the principles of the International Labour Organization with regard to the organization of working time, including those relating to night work;

Whereas, with respect to the weekly rest period, due account should be taken of the diversity of cultural, ethnic, religious and other factors in the Member States;

(1) OJ No C 254, 9. 10. 1990, p. 4.

(2) OJ No C 72, 18. 3. 1991, p. 95;  
and Decision of 27 October 1993 (not yet published in the Official Journal).

(3) OJ No C 60, 8. 3. 1991, p. 26.

(4) OJ No L 183, 29. 6. 1989, p. 1.

whereas, in particular, it is ultimately for each Member State to decide whether Sunday should be included in the weekly rest period, and if so to what extent;

Whereas research has shown that the human body is more sensitive at night to environmental disturbances and also to certain burdensome forms of work organization and that long periods of night work can be detrimental to the health of workers and can endanger safety at the workplace;

Whereas there is a need to limit the duration of periods of night work, including overtime, and to provide for employers who regularly use night workers to bring this information to the attention of the competent authorities if they so request;

Whereas it is important that night workers should be entitled to a free health assessment prior to their assignment and thereafter at regular intervals and that whenever possible they should be transferred to day work for which they are suited if they suffer from health problems;

Whereas the situation of night and shift workers requires that the level of safety and health protection should be adapted to the nature of their work and that the organization and functioning of protection and prevention services and resources should be efficient;

Whereas specific working conditions may have detrimental effects on the safety and health of workers; whereas the organization of work according to a certain pattern must take account of the general principle of adapting work to the worker;

Whereas, given the specific nature of the work concerned, it may be necessary to adopt separate measures with regard to the organization of working time in certain sectors or activities which are excluded from the scope of this Directive;

Whereas, in view of the question likely to be raised by the organization of working time within an undertaking, it appears desirable to provide for flexibility in the application of certain provisions of this Directive, whilst ensuring compliance with the principles of protecting the safety and health of workers;

Whereas it is necessary to provide that certain provisions may be subject to derogations implemented, according to the case, by the Member States or the two sides of industry; whereas, as a general rule, in the event of a derogation, the workers concerned must be given equivalent compensatory rest periods,

HAS ADOPTED THIS DIRECTIVE:

## SECTION I

### SCOPE AND DEFINITIONS

#### Article 1

##### Purpose and scope

1. This Directive lays down minimum safety and health requirements for the organization of working time.
2. This Directive applies to:
  - (a) minimum periods of daily rest, weekly rest and annual leave, to breaks and maximum weekly working time; and
  - (b) certain aspects of night work, shift work and patterns of work.
3. This Directive shall apply to all sectors of activity, both public and private, within the meaning of Article 2 of Directive 89/391/EEC, without prejudice to Article 17 of this Directive, with the exception of air, rail, road, sea, inland waterway and lake transport, sea fishing, other work at sea and the activities of doctors in training;
4. The provisions of Directive 89/391/EEC are fully applicable to the matters referred to in paragraph 2, without prejudice to more stringent and/or specific provisions contained in this Directive.

#### Article 2

##### Definitions

For the purposes of this Directive, the following definitions shall apply:

1. *working time* shall mean any period during which the worker is working, at the employer's disposal and carrying out his activity or duties, in accordance with national laws and/or practice;
2. *rest period* shall mean any period which is not working time;
3. *night time* shall mean any period of not less than seven hours, as defined by national law, and which must include in any case the period between midnight and 5 a. m.;
4. *night worker* shall mean:
  - (a) on the one hand, any worker, who, during night time, works at least three hours of his daily working time as a normal course; and

(b) on the other hand, any worker who is likely during night time to work a certain proportion of his annual working time, as defined at the choice of the Member State concerned:

- (i) by national legislation, following consultation with the two sides of industry; or
- (ii) by collective agreements or agreements concluded between the two sides of industry at national or regional level;

5. *shift work* shall mean any method of organizing work in shifts whereby workers succeed each other at the same work stations according to a certain pattern, including a rotating pattern, and which may be continuous or discontinuous, entailing the need for workers to work at different times over a given period of days or weeks;

6. *shift worker* shall mean any worker whose work schedule is part of shift work.

## SECTION II

### MINIMUM REST PERIODS — OTHER ASPECTS OF THE ORGANIZATION OF WORKING TIME

#### Article 3

##### Daily rest

Member States shall take the measures necessary to ensure that every worker is entitled to a minimum daily rest period of 11 consecutive hours per 24-hour period.

#### Article 4

##### Breaks

Member States shall take the measures necessary to ensure that, where the working day is longer than six hours, every worker is entitled to a rest break, the details of which, including duration and the terms on which it is granted, shall be laid down in collective agreements or agreements between the two sides of industry or, failing that, by national legislation.

#### Article 5

##### Weekly rest period

Member States shall take the measures necessary to ensure that, per each seven-day period, every worker is entitled to a minimum uninterrupted rest period of 24

hours plus the 11 hours' daily rest referred to in Article 3.

The minimum rest period referred to in the first subparagraph shall in principle include Sunday.

If objective, technical or work organization conditions so justify, a minimum rest period of 24 hours may be applied.

#### Article 6

##### Maximum weekly working time

Member States shall take the measures necessary to ensure that, in keeping with the need to protect the safety and health of workers:

1. the period of weekly working time is limited by means of laws, regulations or administrative provisions or by collective agreements or agreements between the two sides of industry;
2. the average working time for each seven-day period, including overtime, does not exceed 48 hours.

#### Article 7

##### Annual leave

1. Member States shall take the measures necessary to ensure that every worker is entitled to paid annual leave of at least four weeks in accordance with the conditions for entitlement to, and granting of, such leave laid down by national legislation and/or practice.

2. The minimum period of paid annual leave may not be replaced by an allowance in lieu, except where the employment relationship is terminated.

## SECTION III

### NIGHT WORK — SHIFT WORK — PATTERNS OF WORK

#### Article 8

##### Length of night work

Member States shall take the measures necessary to ensure that:

1. normal hours of work for night workers do not exceed an average of eight hours in any 24-hour period;

2. night workers whose work involves special hazards or heavy physical or mental strain do not work more than eight hours in any period of 24 hours during which they perform night work.

For the purposes of the aforementioned, work involving special hazards or heavy physical or mental strain shall be defined by national legislation and/or practice or by collective agreements or agreements concluded between the two sides of industry, taking account of the specific effects and hazards of night work.

#### *Article 9*

#### **Health assessment and transfer of night workers to day work**

1. Member States shall take the measures necessary to ensure that:

- (a) night workers are entitled to a free health assessment before their assignment and thereafter at regular intervals;
- (b) night workers suffering from health problems recognized as being connected with the fact that they perform night work are transferred whenever possible to day work to which they are suited.

2. The free health assessment referred to in paragraph 1 (a) must comply with medical confidentiality.

3. The free health assessment referred to in paragraph 1 (a) may be conducted within the national health system.

#### *Article 10*

#### **Guarantees for night-time working**

Member States may make the work of certain categories of night workers subject to certain guarantees, under conditions laid down by national legislation and/or practice, in the case of workers who incur risks to their safety or health linked to night-time working.

#### *Article 11*

#### **Notification of regular use of night workers**

Member States shall take the measures necessary to ensure that an employer who regularly uses night workers brings this information to the attention of the competent authorities if they so request.

#### *Article 12*

#### **Safety and health protection**

Member States shall take the measures necessary to ensure that:

1. night workers and shift workers have safety and health protection appropriate to the nature of their work;
2. appropriate protection and prevention services or facilities with regard to the safety and health of night workers and shift workers are equivalent to those applicable to other workers and are available at all times.

#### *Article 13*

#### **Pattern of work**

Member States shall take the measures necessary to ensure that an employer who intends to organize work according to a certain pattern takes account of the general principle of adapting work to the worker, with a view, in particular, to alleviating monotonous work and work at a predetermined work-rate, depending on the type of activity, and of safety and health requirements, especially as regards breaks during working time.

### **SECTION IV**

#### **MISCELLANEOUS PROVISIONS**

#### *Article 14*

#### **More specific Community provisions**

The provisions of this Directive shall not apply where other Community instruments contain more specific requirements concerning certain occupations or occupational activities.

#### *Article 15*

#### **More favourable provisions**

This Directive shall not affect Member States' right to apply or introduce laws, regulations or administrative provisions more favourable to the protection of the safety and health of workers or to facilitate or permit the application of collective agreements or agreements concluded between the two sides of industry which are more favourable to the protection of the safety and health of workers.

*Article 16***Reference periods**

Member States may lay down:

1. for the application of Article 5 (weekly rest period), a reference period not exceeding 14 days;
2. for the application of Article 6 (maximum weekly working time), a reference period not exceeding four months.

The periods of paid annual leave, granted in accordance with Article 7, and the periods of sick leave shall not be included or shall be neutral in the calculation of the average;

3. for the application of Article 8 (length of night work), a reference period defined after consultation of the two sides of industry or by collective agreements or agreements concluded between the two sides of industry at national or regional level.

If the minimum weekly rest period of 24 hours required by Article 5 falls within that reference period, it shall not be included in the calculation of the average.

*Article 17***Derogations**

1. With due regard for the general principles of the protection of the safety and health of workers, Member States may derogate from Article 3, 4, 5, 6, 8 or 16 when, on account of the specific characteristics of the activity concerned, the duration of the working time is not measured and/or predetermined or can be determined by the workers themselves, and particularly in the case of:

- (a) managing executives or other persons with autonomous decision-taking powers;
- (b) family workers; or
- (c) workers officiating at religious ceremonies in churches and religious communities.

2. Derogations may be adopted by means of laws, regulations or administrative provisions or by means of collective agreements or agreements between the two sides of industry provided that the workers concerned are afforded equivalent periods of compensatory rest or that, in exceptional cases in which it is not possible, for objective reasons, to grant such equivalent periods of compensatory rest, the workers concerned are afforded appropriate protection:

2.1. from Articles 3, 4, 5, 8 and 16:

- (a) in the case of activities where the worker's place of work and his place of residence are distant from one

another or where the worker's different places of work are distant from one another;

- (b) in the case of security and surveillance activities requiring a permanent presence in order to protect property and persons, particularly security guards and caretakers or security firms;
- (c) in the case of activities involving the need for continuity of service or production, particularly:
  - (i) services relating to the reception, treatment and/or care provided by hospitals or similar establishments, residential institutions and prisons;
  - (ii) dock or airport workers;
  - (iii) press, radio, television, cinematographic production, postal and telecommunications services, ambulance, fire and civil protection services;
  - (iv) gas, water and electricity production, transmission and distribution, household refuse collection and incineration plants;
  - (v) industries in which work cannot be interrupted on technical grounds;
  - (vi) research and development activities;
  - (vii) agriculture;

(d) where there is a foreseeable surge of activity, particularly in:

- (i) agriculture;
- (ii) tourism;
- (iii) postal services;

2.2. from Articles 3, 4, 5, 8 and 16:

- (a) in the circumstances described in Article 5 (4) of Directive 89/391/EEC;
- (b) in cases of accident or imminent risk of accident;

2.3. from Articles 3 and 5:

- (a) in the case of shift work activities, each time the worker changes shift and cannot take daily and/or weekly rest periods between the end of one shift and the start of the next one;
- (b) in the case of activities involving periods of work split up over the day, particularly those of cleaning staff.

3. Derogations may be made from Articles 3, 4, 5, 8 and 16 by means of collective agreements or agreements concluded between the two sides of industry at national

or regional level or, in conformity with the rules laid down by them, by means of collective agreements or agreements concluded between the two sides of industry at a lower level.

Member States in which there is no statutory system ensuring the conclusion of collective agreements or agreements concluded between the two sides of industry at national or regional level, on the matters covered by this Directive, or those Member States in which there is a specific legislative framework for this purpose and within the limits thereof, may, in accordance with national legislation and/or practice, allow derogations from Articles 3, 4, 5, 8 and 16 by way of collective agreements or agreements concluded between the two sides of industry at the appropriate collective level.

The derogations provided for in the first and second subparagraphs shall be allowed on condition that equivalent compensating rest periods are granted to the workers concerned or, in exceptional cases where it is not possible for objective reasons to grant such periods, the workers concerned are afforded appropriate protection.

Member States may lay down rules:

- for the application of this paragraph by the two sides of industry, and
- for the extension of the provisions of collective agreements or agreements concluded in conformity with this paragraph to other workers in accordance with national legislation and/or practice.

4. The option to derogate from point 2 of Article 16, provided in paragraph 2, points 2.1. and 2.2. and in paragraph 3 of this Article, may not result in the establishment of a reference period exceeding six months.

However, Member States shall have the option, subject to compliance with the general principles relating to the protection of the safety and health of workers, of allowing, for objective or technical reasons or reasons concerning the organization of work, collective agreements or agreements concluded between the two sides of industry to set reference periods in no event exceeding 12 months.

Before the expiry of a period of seven years from the date referred to in Article 18 (1) (a), the Council shall, on the basis of a Commission proposal accompanied by an appraisal report, re-examine the provisions of this paragraph and decide what action to take.

#### Article 18

#### Final provisions

1. (a) Member States shall adopt the laws, regulations and administrative provisions necessary to comply

with this Directive by 23 November 1996, or shall ensure by that date that the two sides of industry establish the necessary measures by agreement, with Member States being obliged to take any necessary steps to enable them to guarantee at all times that the provisions laid down by this Directive are fulfilled.

- (b) (i) However, a Member State shall have the option not to apply Article 6, while respecting the general principles of the protection of the safety and health of workers, and provided it takes the necessary measures to ensure that:

- no employer requires a worker to work more than 48 hours over a seven-day period, calculated as an average for the reference period referred to in point 2 of Article 16, unless he has first obtained the worker's agreement to perform such work,
- no worker is subjected to any detriment by his employer because he is not willing to give his agreement to perform such work,
- the employer keeps up-to-date records of all workers who carry out such work,
- the records are placed at the disposal of the competent authorities, which may, for reasons connected with the safety and/or health of workers, prohibit or restrict the possibility of exceeding the maximum weekly working hours,
- the employer provides the competent authorities at their request with information on cases in which agreement has been given by workers to perform work exceeding 48 hours over a period of seven days, calculated as an average for the reference period referred to in point 2 of Article 16.

Before the expiry of a period of seven years from the date referred to in (a), the Council shall, on the basis of a Commission proposal accompanied by an appraisal report, re-examine the provisions of this point (i) and decide on what action to take.

- (ii) Similarly, Member States shall have the option, as regards the application of Article 7, of making use of a transitional period of not more than three years from the date referred to in (a), provided that during that transitional period:

- every worker receives three weeks' paid annual leave in accordance with the

conditions for the entitlement to, and granting of, such leave laid down by national legislation and/or practice, and

- the three-week period of paid annual leave may not be replaced by an allowance in lieu, except where the employment relationship is terminated.

(c) Member states shall forthwith inform the Commission thereof.

2. When Member States adopt the measures referred to in paragraph 1, they shall contain a reference to this Directive or shall be accompanied by such reference on the occasion of their official publication. The methods of making such a reference shall be laid down by the Member states.

3. Without prejudice to the right of Member States to develop, in the light of changing circumstances, different legislative, regulatory or contractual provisions in the field of working time, as long as the minimum requirements provided for in this Directive are complied with, implementation of this Directive shall not constitute valid grounds for reducing the general level of protection afforded to workers.

4. Member States shall communicate to the Commission the texts of the provisions of national law already adopted or being adopted in the field governed by this Directive.

5. Member States shall report to the Commission every five years on the practical implementation of the provisions of this Directive, indicating the viewpoints of the two sides of industry.

The Commission shall inform the European Parliament, the Council, the Economic and Social Committee and the Advisory Committee on Safety, Hygiene and Health Protection at Work thereof.

6. Every five years the Commission shall submit to the European Parliament, the Council and the Economic and Social Committee a report on the application of this Directive taking into account paragraphs 1, 2, 3, 4 and 5.

#### *Article 19*

This Directive is addressed to the Member States.

Done at Brussels, 23 November 1993.

*For the Council*

*The President*

M. SMET