

---

## EXPLANATORY NOTE

*(This note is not part of the Regulations)*

These Regulations implement certain requirements of [Directive 2015/1794/EC](#) (OJ No L 263, 8.10.2015, p 3) (“the Seafarers Directive”). The purpose of the Seafarers Directive is to place those employed at sea on an equal footing with land based employees and to remove unequal treatment across member States.

These Regulations amend the Transnational Information and Consultation of Employees Regulations 1999 (“the 1999 Regulations”) which implemented in the United Kingdom [Directive 2009/38/EC](#) of the European Parliament and of the Council (“the 2009 Directive”) on the establishment of a European Works Council or, alternatively, information and consultation procedures in Community-scale undertakings and Community-scale groups of undertakings. [Directive 2009/38/EC](#) is a recast of Council [Directive 94/45/EC](#) (OJ No L 254, 30.09.1994), p 64).

Article 1(7) of the 2009 Directive permitted member States to exclude merchant navy crews from the scope of the application of the Directive. The 1999 Regulations applied this derogation (with certain exclusions) but retained a discretion for central management to permit a long haul crew member to be a member of a special negotiating body or of a European Works Council, or an information and consultation representative.

The Seafarers Directive amends the 2009 Directive by omitting Article 1(7). Specific provisions for crew members in relation to participation in a special negotiating body or in a European Works Council or an alternative information and consultation procedure established by virtue of the 2009 Directive, are created under Article 2(2) of the Seafarers Directive.

In order to reflect the amendment, regulation 2 amends the 1999 Regulations by removing (subject to certain conditions) the derogation in regulation 46 (merchant navy) and implements the provisions in Article 2 of the Seafarers Directive.

Part IV, Chapter II of the Trade Union and Labour Relations (Consolidation) Act 1992 (“TULRCA”) implements in Great Britain the provisions of [Directive 1998/59/EC](#) of the Council of the European Union (OJ No L 225, 12.08.1998, p 16) (“the 1998 Directive”). Article 4 of the Seafarers Directive amends the 1998 Directive by inserting in Article 3(1) an obligation on an employer to notify the competent authority of a seagoing vessel’s flag State in the event of a collective redundancy involving the vessel’s crew.

In order to reflect the amendment, regulation 3(1) inserts section 193A in TULRCA (duty of employer to notify competent authority of a vessel’s flag State of certain redundancies).

Part VII of the Pension Schemes Act 1993 (insolvency of employers) implements in Great Britain certain provisions of [Directive 2008/94/EC](#) of the European Parliament and of the Council (OJ No L 283, 28.10.2008, p 36) (“the 2008 Directive”). Section 165(7) of the Pension Schemes Act 1993 excludes employed share fishermen from the scope of Part VII, Chapter II (payment by Secretary of State of unpaid scheme contributions). Article 1 of the Seafarers Directive amends the 2008 Directive by ensuring that seafarers employed as share fishermen are brought within the scope of the 2008 Directive.

In order to reflect the amendment, regulation 4(2) amends section 165(7) of the Pension Schemes Act 1993 by removing the exclusion of employed share fishermen from the provisions of Part VII, Chapter II and from section 157 (power of Secretary of State to obtain information in connection with applications under section 124) (pursuant to section 157(5), section 157 is to be construed as if it were in Part VII, Chapter II).

**Status:** *This is the original version (as it was originally made). This item of legislation is currently only available in its original format.*

Section 165(7) of the Pension Schemes Act 1993 also excludes merchant seamen from the provisions of section 124 (duty of Secretary of State to pay unpaid contributions to schemes) and section 125 (certification of amounts payable under section 124 by insolvency officers). Regulations 4(2) and 4(3) amend sections 165(7) and 165(8) of the Pension Schemes Act 1993 in order to bring merchant seamen within the scope of sections 124 and 125, as provided for by the 2008 Directive.

Regulation 5 requires the Secretary of State to review the operation and effect of regulation 2 and publish a report before 6th February 2023 and within every five years after that. Following a review, it will fall to the Secretary of State to consider whether regulation 2 should remain as it is or be amended.

An impact assessment has not been prepared for these Regulations as no significant impact on individuals or businesses is foreseen.

An Explanatory Memorandum is published alongside these Regulations at [www.legislation.gov.uk](http://www.legislation.gov.uk) and is also available from the Department for Transport, Great Minster House, 33 Horseferry Road, London SW1P 4DR.