

TRANSPOSITION TABLE FOR IMPLEMENTATION OF AMENDMENTS TO DIRECTIVE 2008/94/EC, DIRECTIVE 1998/59/EC AND DIRECTIVE 2002/14/EC MADE BY DIRECTIVE (EU) 2015/1794 (THE SEAFARERS DIRECTIVE)

THE SEAFARERS (INSOLVENCY, COLLECTIVE REDUNDANCIES AND INFORMATION AND CONSULTATION AND CONSULTATION MISCELLANEOUS AMENDMENTS) REGULATIONS 2018

DIRECTIVE 2008/94/EC (INSOLVENCY DIRECTIVE)	ARTICLE 1 OF DIRECTIVE (EU) 2015/1794 (SEAFARERS DIRECTIVE)	OBJECTIVE OF AMENDMENT	IMPLEMENTATION OF ARTICLE 1(3) IN RELATION TO EMPLOYMENT RIGHTS	IMPLEMENTATION OF AMENDMENT TO DIRECTIVE 2008/94/EC
<p>Article 1(3):</p> <p>‘Where such provision already applies in their national legislation, Member States may continue to exclude from the scope of this Directive:</p> <p>(a) domestic servants employed by a natural person;</p> <p>(b) share fishermen.’</p>	<p>‘Article 1(3) of Directive 2008/94/EC is replaced by the following:</p> <p>3. Where such provision already applies in their national legislation, Member States may continue to exclude domestic servants employed by a natural person from the scope of the Directive.’</p>	<p>To bring share fishermen within the scope of the Insolvency Directive but only where Member States treat them as employed.</p>	<p>S199(2) of the Employment Rights Act 1996 excludes share fishermen from the scope of Part XII of the Act, which implements the provisions of the Insolvency Directive.</p> <p>S199(4) of the Employment Rights Act 1996 excludes merchant seamen from the scope of Part XII of the Act (which implements the Insolvency Directive).</p> <p>NB. An additional amendment has been made in order to apply Part XI of the ERA to employed share fishermen. This is not an amendment that is needed in order to transpose the amendment to the Insolvency Directive but is an amendment that is desirable for the protection of</p>	<p>Regulation 2 in the Seafarers (Insolvency, Collective Redundancies and Information and Consultation Miscellaneous Amendments) Regulations 2018:</p> <p>2. ‘—(1) Section 199 of the Employment Rights Act 1996 (mariners) is amended as follows.</p> <p>(2) In subsection (2) for “Parts X to XII” substitute “Part X”.</p> <p>(3) In subsection (4) omit “and Part XII”.</p> <p>(4) The amendment made by paragraph (2), insofar as it relates to Part XI of the Employment Rights Act 1996, only has effect in relation to employees who on or after the date on which these Regulations come into force—</p> <p>(a) are dismissed by reason of redundancy, or</p>

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			<p>(employed) share fishermen. The vires is the same as the vires used for the EU implementation (s209(1)(c) ERA).</p>	<p>(b) become eligible for a redundancy payment by reason of being laid off or kept on short-time.</p> <p>(5) The amendment made by paragraph (2), insofar as it relates to Part XII of the Employment Rights Act 1996, and the amendment made by paragraph (3) only have effect in relation to employees whose employer has become insolvent on or after the date on which these Regulations come into force.'</p>
<p>DIRECTIVE 1998/59/EC (COLLECTIVE REDUNDANCIES)</p> <p>Article 1(2)(c)</p> <p>'This Directive shall not apply to – (c) the crews of seagoing vessels.'</p>	<p>ARTICLE 4 OF DIRECTIVE (EU) 2015/1794 (SEAFARERS DIRECTIVE)</p> <p>Article 4</p> <p>'(1) in Article 1(2), point (c) is deleted.'</p>	<p>OBJECTIVE OF AMENDMENT</p> <p>To remove the derogation in relation to seafarers to provide them with the same rights as land based employees.</p>	<p>IMPLEMENTATION OF ARTICLE 1(2)(c) IN DIRECTIVE 1998/59/EC</p> <p>The Trade Union and Labour Relations (Consolidation) Act 1992, sections 283 and 284</p> <p>The derogation was not applied in relation to merchant seamen (section 283) but was retained</p>	<p>IMPLEMENTATION OF AMENDMENT TO ARTICLE 1(2)(C) IN DIRECTIVE 1998/59/EC</p> <p>Regulation 3 in the Seafarers (Insolvency, Collective Redundancies and Information and Consultation Miscellaneous Amendments) Regulations 2018:</p>

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		<p>in relation to share fishermen (s284):</p> <p>‘The following provisions of this Act do not apply to employment as master or as member of the crew of a fishing vessel where the employee (or, in the case of sections 145A to 151, the worker) is remunerated only by a share in the profits or gross earnings of the vessel-</p> <p>...</p> <p>In Part IV, Chapter II (procedure for handling redundancies).’</p>	<p>‘3.—(1) Section 284 of the Trade Union and Labour Relations (Consolidation) Act 1992 (share fishermen) is amended as follows.</p> <p>(2) Omit—</p> <p>“In Part IV, Chapter II (procedure for handling redundancies).”</p> <p>(3) The amendment made by paragraph (2) only has effect in relation to dismissals which are first proposed by an employer on or after the date on which these Regulations come into force.’</p>
<p>DIRECTIVE 2002/14/EC (INFORMATION AND CONSULTATION)</p>		<p>OBJECTIVE OF AMENDMENT</p>	<p>IMPLEMENTATION OF ARTICLE 3(3) IN DIRECTIVE 2002/14/EC</p>
		<p>ARTICLE 3 OF DIRECTIVE (EU) 2015/1794 (SEAFARERS DIRECTIVE)</p>	
<p>Article 3(3)</p> <p>‘Member States may derogate from this</p>	<p>Article 3</p> <p>‘Article 3(3) of Directive 2002/14/EC is deleted.’</p>	<p>To remove the derogation for the merchant navy from Directive 2002/14/EC in order to put seafarers on an</p>	<p>IMPLEMENTATION OF REGULATION 4 IN THE SEAFARERS (INSOLVENCY, COLLECTIVE REDUNDANCIES AND INFORMATION)</p>

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<p>Directive through particular provisions applicable to the crews of vessels plying the high seas.’</p>		<p>equal footing with land based employees in relation to information and consultation rights.</p>	<p>‘Exception for merchant navy 43.—(1) Subject to paragraph (3), no long haul crew member shall be— (a) a negotiating representative; or (b) an information and consultation representative. (2) In paragraph (1), a “long haul crew member” means a person who is a member of a merchant navy crew other than— (a) a ferry worker; or (b) a person who normally works on voyages the duration of which is less than 48 hours. (3) Paragraph (1) does not apply where the employer decides that the long haul crew member in question shall be permitted</p>	<p>and Consultation Miscellaneous Amendments) Regulations 2018: ‘4.—(1) The Information and Consultation of Employees Regulations 2004(a) are amended as follows. (2) Regulation 43 (exception for merchant navy) is omitted.’</p>
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		<p>to be, as the case may be, a negotiating representative or an information and consultation representative.</p> <p>(4) Where paragraph (1) applies, no long haul crew member shall—</p> <p>(a) stand as a candidate for election as a negotiating representative or an information and consultation representative; or</p> <p>(b) be appointed or elected to be a negotiating representative or an information and consultation representative.’</p>	
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