

TRANSPOSITION NOTE

This note sets out the way in which the Merchant Shipping (Maritime Labour Convention) (Hours of Work) Regulations 2018 ('the Regulations') transpose the provisions in Council Directive 2009/13/EC (O.J. No. L124, 20.05.2009, p.30) concerning hours of work, annual leave and shore leave for seafarers and in addition

- Article 15 of Council Directive 2008/106/EC of 19th November 2008 on the minimum level of training of seafarers (recast), as amended by article 1(14) of Council Directive 2012/35/EU of 21st November 2012;
- Article 19 of Directive 2009/16/EC of 23rd April 2009 on port state control, as amended by article 1 of Council Directive 2013/3/EU of 12th August 2013; and
- Article 3 of Council Directive 2013/54/EU of 20th November 2013 concerning certain flag state responsibilities for compliance with and enforcement of the Maritime Labour Convention, 2006.

The Regulations implement provisions concerning hours of work and annual leave contained in Council Directive 1999/63/EC (O.J No. L167, 02.07.1999, p.33) which annexes and gives effect to the European Agreement on the Organisation of Working Time of Seafarers. The provisions of the European Agreement on the Organisation of Working Time of Seafarers on hours of work and annual leave have been amended by Council Directive 2009/13/EC which annexes and gives effect to the Agreement concluded by the ECSA (European Community Shipowners' Associations) and the ETF (European Transport Workers' Federation) on the Maritime Labour Convention 2006. In addition the Regulations implement a new provision concerning shore leave contained in the Agreement annexed to Council Directive 2009/13/EC.

The Regulations are made under the Merchant Shipping Act 1995 and the European Communities Act 1972 and apply in United Kingdom waters and to sea-going United Kingdom ships wherever they may be.

The responsibility for implementation of Council Directive 2009/13/EC rests with the Secretary of State for Transport.

Maritime and Coastguard Agency
Department for Transport

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TABLE RELATING TO IMPLEMENTATION OF DIRECTIVE COUNCIL DIRECTIVE 2009/13/EC (PROVISIONS RELATING TO HOURS OF WORK AND ENTITLEMENT TO LEAVE)

Provision of Directive	Purpose of Provision of Directive	Implemented in the UK in relation to hours of work and entitlement to leave by the Merchant Shipping (Maritime Labour Convention) (Hours of Work) Regulations 2018 (“the Regulations”)
Article 2.2 amends Clause 2(c) and (d) of the Annex to Directive 1999/63/EC	Amends the definitions of seafarer and shipowner	Regulation 2(1) of the Regulations
Article 2.5 substitutes new Clause 16 into the Annex to Directive 1999/63/EC	Gives an entitlement to paid annual leave calculated on the basis of a minimum of 2.5 days per month of employment and pro rata for incomplete months	Regulation 15(1) of the Regulations
Article 2.5 substitutes new Clause 16 into the Annex to Directive 1999/63/EC	The minimum period of paid annual leave may not be replaced by an allowance in lieu, except where the employment relationship is terminated	Regulation 15(2)(b) of the Regulations
Annex to Directive 2009/13/EC Regulation 2.3 and Annex A paragraphs 2 and 3	Seafarers’ hours of work and rest are regulated by Directive 1999/63/EC as amended by Directive 2009/13/EC, including amendments of the definitions of seafarer and shipowner	Regulation 2(1) of the Regulations; other requirements of Directive 1999/63/EC are transposed by the Regulations
Annex to Directive 2009/13/EC Regulation 2.4.1 and Annex A paragraph	Member States must implement the entitlement to annual leave in accordance with Directive 1999/63/EC as amended by Directive 2009/13/EC	Regulation 15(1) of the Regulations

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Annex to Directive 2009/13/EC Regulation 2.4.2	Gives an entitlement to shore leave	Regulation 17 of the Regulations

TABLE RELATING TO IMPLEMENTATION OF ARTICLE 15 OF COUNCIL DIRECTIVE 2008/106 ON THE MINIMUM LEVEL OF TRAINING OF SEAFARERS (RECAST), AS AMENDED COUNCIL DIRECTIVE 2012/35/EU

Provision of Directive	Purpose of provision	Implemented in the UK in relation to hours of work and entitlement to leave by the Merchant Shipping (Maritime Labour Convention) (Hours of Work) Regulations 2018 (“the Regulations”)
Article 15.1	Member States must enforce rest periods for those with safety, security and prevention of pollution duties in accordance with this Article; and require watch systems are arranged to prevent fatigue and to ensure that watches are sufficiently rested and fit for duty.	Regulation 5 of the Regulations (which apply to all seafarers).
Article 15.3	Member States must take account of the danger posed by fatigue.	Implemented by the Regulations (which apply to all seafarers).
Article 15.4 and 15.5	All watchkeepers whose duties involve designated safety, prevention of pollution and security duties shall be provided with a rest period of not less than: <ul style="list-style-type: none"> (a) a minimum of 10 hours of rest in any 24-hour period; and (b) 77 hours in any seven-day period. Hours of rest must be divided into no more than two periods of which one must be at least six hours.	Regulation 6 of the Regulations (which applies to all seafarers)

Article 15.6	Makes provision for exceptions for emergencies or other overriding operational conditions, and for ensuring safety drills are arranged to minimise fatigue.	Regulation 11 and regulation 5(3) of the Regulations
Article 15.7	Member States must require that watch schedules are posted in a standardised format in the working language of the ship and in English.	Regulation 9 of the Regulations
Article 15.8	Makes provision for compensatory rest when a normal period of rest is disturbed for a seafarer on call.	Regulation 5(4) of the Regulations
Article 15.9	Member States must require hours of rest to be recorded in a standardised format, in the working language of the ship and in English and seafarers to receive a copy endorsed by the master, and the seafarer.	Regulation 12 of the Regulations
Article 15.10	Makes provision for suspension of the schedule of hours of rest in emergency situations, and for those seafarers whose scheduled rest is consequently disturbed to have adequate rest once the normal situation is restored.	Regulation 11 of the Regulations
Article 15.11, 15.12 and 15.13	Makes provision for collective agreements permitting exceptions to the required daily hours of rest to be authorized by Member States provided that specified limits are complied with and conditions met.	Regulation 7 (1) to (3) of the Regulations. (Regulations 7(4) disapplies the specified limits for certain ships which falls outside the scope of the Directive.)

TABLE RELATING TO IMPLEMENTATION OF ARTICLE 19 OF DIRECTIVE 2009/16/EC OF 23RD APRIL 2009 ON PORT STATE CONTROL, AS AMENDED BY ARTICLE 1 OF COUNCIL DIRECTIVE 2013/38/EU OF 12TH AUGUST 2013

Provision of directive	Purpose of provision	Implemented in the UK in relation to hours of work and entitlement to leave by the Merchant Shipping (Maritime Labour Convention) (Hours of Work) Regulations 2018 (“the Regulations”)
Article 19.2	Makes provision for stopping operations or detention of ships where living and working conditions on board are clearly hazardous to the safety, health or security of seafarers or where there are deficiencies which constitute a serious or repeated breach of MLC 2006 requirements (including seafarers’ rights), until measures for rectification of those deficiencies are in place or agreed.	Regulation 21 and 22 of the Regulations
Article 19.6	Specifies measures to be taken by the port State in case of detention of a ship on grounds of deficiencies in living and working conditions.	Regulation 21(5) of the Regulations