No. 1684

OFFICE OF THE PRIME MINISTER
EUROPEAN FUNDS, EQUALITY, REFORMS AND SOCIAL DIALOGUE

Explanatory Notes

1. Introduction

Title of Regulations	Organisation of Working Time in Inland Waterway Transport Regulations, 2024
Activity to be regulated	Organisation of working time in inland waterway transport
Responsible entity	Department for Industrial and Employment Relations

2. Summary and background

Council Directive 2014/112/EU (hereinafter referred to as "the Directive") implements the European Agreement on Working Time in Inland Waterway Transport. It primarily focuses on setting minimum standards for the organisation of working time for mobile workers in this sector, ensuring safety, health, and fair working conditions.

2.1 Background

The Directive implements the European Agreement signed by the European Barge Union (EBU), the European Skippers Organisation (ESO), and the European Transport Workers' Federation (ETF). The purpose is to regulate certain aspects of the working time for workers in the inland waterway transport sector.

The Directive is grounded in Article 155(2) of the Treaty on the Functioning of the European Union (TFEU). This allows for agreements between social partners to be implemented by EU legislation.

The Directive applies to mobile workers (both crew members and other shipboard personnel) employed on commercial vessels operating in inland waterways across EU Member States.

The regulations effectively transpose and align with the Directive, enhancing enforcement and protection for sea-farers.

The regulations shall apply to workers employed as travelling personnel, whether as crew members or in any other function, on board a craft which operates, or ordinarily operates transport services for passengers or goods by inland waterway, in the territory of a Member State or Member States.

Moreover, inland waterway transport operators shall not be considered workers within the meaning of these regulations, even if they have the status of workers in their own undertaking.

The Organisation of Working Time Regulations (S.L. 452.87) shall not apply to workers employed on board a craft operated in the inland waterway transport sector where any particular matter is regulated by these regulations.

These regulations shall be applicable without prejudice to other legislation which grant a higher level of protection to workers in inland waterway transport and to the introduction and implementation of provisions in collective agreements or any other agreement entered into between employers and employees, which are more favourable to the protection of the safety and health of workers.

2.2 Objectives

To ensure that mobile workers in the inland waterway transport sector are provided with adequate rest, health, and safety protections, and to harmonize working conditions across the EU, preventing unfair competition between operators by ensuring consistent standards.

2.3 Importance of Regulations

This proposed legislation aims to ensure compliance with EU Regulations concerning working conditions in inland waterway transport, focusing on health, safety, and fair working hours for workers.

2.4 Public Consultation

Consultations were held with the Employment Relations Board. The Employment Relations Board is a tripartite Board which comprises also trade unions and employers' associations representatives as stipulated in the Employment and Industrial Relations Act (Cap. 452), hereinafter referred to as "the Act".

3. Overview of the structure of the instrument

Regulation 1 – Citation.
Regulation 2 – Scope and Applicability.
Regulation 3 – Interpretation.
Regulation 4 – Working time and reference period.
Regulation 5 – Breaks.
Regulation 6 – Daily and weekly working time.
Regulation 7 – Rest periods.
Regulation 8 – Working days and rest days.
Regulation 9 – Seasonal work on passenger vessels.
Regulation 10 – Maximum working time during night time.
Regulation 11 – Annual leave.
Regulation 12 – Protection of minors.
Regulation 13 – Maintaining records.
Regulation 14 – Emergency situations.
Regulation 15 – Health assessment.
Regulation 16 – Safety and health protection.
Regulation 17 – Designated officers.
Regulation 18 – Protection from dismissal, other consequences and the burden of proof.
Regulation 19 – Offences.

4. Commentary

Regulation 3:

provides key definitions, such as:

Boatmaster: Responsible for sailing and crew management.
Night worker: Those working during designated night hours (10 p.m. - 6 a.m.).
Craft: Any vessel or floating equipment used in transport.

Regulations 4 and 5:

Standard working hours are based on an 8-hour day.
Maximum working time is 48 hours per week over a 12-month reference period.
Workers are entitled to breaks of at least 30 minutes after 6 hours of work.

Regulations 6 and 7:

Working time cannot exceed 14 hours per 24-hour period or 84 hours per 7-day period.
Rest periods shall include at least 10 hours per 24 hours and 84 hours per 7 days.

Regulation 9:

Workers on passenger vessels can work up to 12 hours per 24-hour period and 72 hours per 7-day period during the season, which lasts up to 9 consecutive months.
They are entitled to at least two rest days per 31 days.

Regulation 10:

Night workers can work up to 7 hours per night and a maximum of 42 hours per 7 days.

Regulation 11:

Workers are entitled to at least 4 weeks of paid annual leave.

Regulation 12:

Workers under the age of 18 cannot be employed on a craft unless they are at least **16 years old** and no longer in compulsory schooling. They are generally prohibited from performing night work, with some exceptions.

Regulation 13:

Employers shall maintain records of daily working hours and rest periods for every worker. These records shall be completed monthly and retained for 12 months.

Regulation 14:

In emergencies, the boatmaster may suspend rest periods, but workers shall receive adequate rest once normal conditions are restored.

Regulation 15:

Workers are entitled to annual health assessments at no cost to assess fitness for work under specific working conditions.

Regulation 16:

Employers are required to perform risk assessments for night and shift workers, addressing any risks specific to those working conditions.

Regulation 19:

Non-compliance with the regulations shall be considered as an offence, with fines starting at **€465.87**.Bottom of Form

5. Concluding sections

These regulations shall come into force upon their publication in the Gazette.

In case of queries, the general public is encouraged to contact the Department for Industrial and Employment Relations:

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N.B: These Explanatory Notes are not intended to be an exhaustive description of the legal instrument nor a substitute thereof or a legislative supplement to it. These Explanatory Notes do not purport to be an authoritative ruling on the interpretation of the legislation.

Annex

(for the purpose of paragraph (vi) of Schedule III of Chapter 512 of the Laws of Malta)

Transposition Notes for the transposition of Council Directive 2014/112/EU of 19 December 2014 implementing the European Agreement concerning certain aspects of the organisation of working time in inland waterway transport, concluded by the European Barge Union (EBU), the European Skippers Organisation (ESO) and the European Transport Workers' Federation (ETF).

Directive article number/s Directive 2014/112/EU	**Transposiong Regulations Organisation of Working Time in Inland Waterway Transport Regulations, 2024**
Paragraph 1(1) of the Annex	Regulation 2(1)
Paragraph 1(2) of the Annex	Regulation 2(4)
Paragraph 1(4) of the Annex	Regulation 2(6)
Paragraph 2 of the Annex	Regulation 3(1)
Paragraph 3(1) of the Annex	Regulation 4(1)
Paragraph 3(2) of the Annex	Regulation 4(2)
Paragraph 3(3) of the Annex	Regulation 4(2)
Paragraph 3(4) of the Annex	Regulation 4(3)
Paragraph 8 of the Annex	Regulation 5
Paragraph 4(1) of the Annex	Regulation 6(1)
Paragraph 4(2) of the Annex	Regulation 6(2)
Paragraph 7 of the Annex	Regulation 7(1) and (2)
Paragraph 5 of the Annex	Regulation 8
Paragraph 6(1) of the Annex	Regulation 9(1)
Paragraph 6(2) of the Annex	Regulation 9(1)
Paragraph 9 of the Annex	Regulation 10
Paragraph 10 of the Annex	Regulation 11
Paragraph 11 of the Annex	Regulation 12
Paragraph 12 of the Annex	Regulation 13
Paragraph 13 of the Annex	Regulation 14
Paragraph 14 of the Annex	Regulation 15
Paragraph 15 of the Annex	Regulation 16

29th November, 2024