



MGN 583 (F) Amendment 1

INTERNATIONAL LABOUR ORGANIZATION WORK IN FISHING CONVENTION (No. 188) Fishermen's Work Agreements

Notice to all fishing vessel owners, operators and managers; employers of fishermen; skippers, officers and fishermen on fishing vessels

This notice should be read with the Merchant Shipping (Work in Fishing Convention) Regulations 2018 and replaces MGN 583.

Summary

- Every fisherman working on a fishing vessel engaged in commercial operations must have a fisherman's work agreement (FWA), setting out their terms and conditions.
- Regulations specify the minimum mandatory contents of a FWA
- General UK employment law includes three additional pieces of information which employers must provide to their employees. It is recommended that these are included in the FWA:
 - Normal hours of work and any provision for overtime
 - Grievance and disciplinary procedures
 - Any pension attached to the employment.
- Each fisherman must have an opportunity to review and understand their FWA before they are required to sign it and must be given a signed copy.
- A copy of the FWA must also be held on board the vessel with a translation in English if necessary.
- Model agreements (non-mandatory) for employed fishermen and for self-employed share fishermen are provided at Annex A and Annex B



1. Introduction

- 1.1 Every fisherman (regardless of their employment status) working on a fishing vessel must have a transparent and enforceable statement of their living and working conditions on board, referred to as a “fisherman’s work agreement” (FWA).
- 1.2 For employed fishermen on UK fishing vessels, FWAs replace the existing requirement for crew agreements (under the Merchant Shipping (Crew Agreements, Lists of crew and Discharge of Seamen) (Fishing Vessels) Regulations 1972. Instead of a common agreement that all the crew members sign, each fisherman must have an individual copy that they and the fishing vessel owner (or employer or another party) has signed.
- 1.3 FWAs are a new requirement for self-employed share fishermen.

2. Application

- 2.1 The Regulations implementing the requirement for FWAs apply to all UK fishing vessels regardless of size and wherever they are in the world, when engaged in commercial fishing operations (as opposed to undertaking another role such as guardship duties, when the requirements of the Maritime Labour Convention apply). They also apply to a non-UK fishing vessel when it is in UK waters when engaged in commercial fishing operations.
- 2.2 The requirement to have a FWA does NOT apply to a fishing vessel owner who is single-handedly operating the vessel.

3. Minimum requirements for a FWA

- 3.1 A FWA must be comprehensible to the fisherman and consistent with the provisions of ILO 188.
- 3.2 A FWA must contain certain minimum pieces of information. These are:

For both employed and self-employed (share) fishermen

- the fisherman's family name and other names, date of birth or age, and birthplace;
- the place at which and date on which the agreement was concluded; the name of the fishing vessel or vessels and the registration number of the vessel or vessels on board which the fisherman undertakes to work;
- the name of the employer, or fishing vessel owner, or other party to the agreement with the fisherman;
- the voyage or voyages to be undertaken, if this can be determined at the time of making the agreement;
- the capacity in which the fisherman is to be employed or engaged;
- if possible, the place at which and date on which the fisherman is required to report on board for service;
- the provisions to be supplied to the fisherman, unless some alternative system is provided for by national law or regulation;
- the termination of the agreement and the conditions thereof, namely:
 - if the agreement has been made for a definite period, the date fixed for its expiry;
 - if the agreement has been made for a voyage, the port of destination and the time which has to expire after arrival before the fisherman shall be discharged;
 - if the agreement has been made for an indefinite period, the conditions which shall entitle either party to rescind it, as well as the required period of notice for rescission, provided that such period shall not be less for the employer, or fishing vessel owner or other party to the agreement with the fisherman;



- the protection that will cover the fisherman in the event of sickness, injury or death in connection with service;
- the health and social security coverage and benefits to be provided to the fisherman by the employer, fishing vessel owner, or other party or parties to the fisherman's work agreement, as applicable;
- the fisherman's entitlement to repatriation.

Plus, for employed fishermen

- the amount of wages, or the amount of the wage and share and the method of calculating the latter if remuneration is to be on a combined basis, and any agreed minimum wage;
- the amount of paid annual leave or the formula used for calculating leave, where applicable.

Plus for self-employed share fishermen

- the amount of the share and the method of calculating such share if remuneration is to be on a share basis,

3.3 The FWA may consist of more than one document. For example, if the fisherman is employed under a collective bargaining agreement (CBA), the CBA may form part of their FWA.

3.4 The FWA must be signed by the fishing vessel owner, employer or other party to the agreement and the fisherman.

4. Model agreements

4.1 MCA has produced two model FWAs, one for use for employed fishermen and the other for self-employed share fishermen. These are in Annex B and Annex C respectively. There is no requirement to use these model agreements; they are supplied to assist those who do not have the capacity to produce an FWA for their own use. Any FWA must however include the minimum information at section 3 of this MGN.

5. Responsibilities of the fishing vessel owner

5.1 It is the fishing vessel owner's responsibility to ensure that all the fishermen working on their vessel have a FWA which complies with the Regulations. This applies even if the fisherman is employed by someone else (e.g. an employment agency). This is because under ILO 188, it is the fishing vessel owner who takes responsibility for compliance with ILO 188.

5.2 Before the agreement is signed by the fisherman, the fishing vessel owner must satisfy themselves that –

- 5.2.1 the fisherman has had sufficient opportunity to review and take advice on the terms of and conditions of the agreement;
- 5.2.2 the fisherman has received an explanation of their rights and responsibilities under the agreement; and
- 5.2.3 the fisherman is entering into the agreement freely.

5.3 Once the agreement is signed by both parties, the fishing vessel owner must ensure that the fisherman receives an original copy as soon as possible. Each fisherman must have copies of all documents forming part of the agreement. For example, if the FWA incorporates the terms and conditions from a CBA, which are referenced in the individual agreement, the fishermen must have a copy of both their individual agreement and the CBA. The two documents together would form an FWA.



5.4 A copy of the FWA must also be held on board the fishing vessel, and be available for the fisherman to view on request.

5.5 If the FWA is not in English, an English translation of the FWA must also be available on board.

6. Additional provisions required by UK employment legislation

6.1 In addition to the minimum content of an FWA as required by ILO 188, employment contracts in the UK must also include the following information (for employed fishermen only):

6.1.1 Hours of work

Employees in the UK must be told what hours they are being paid to work, and whether any overtime rates apply for hours in excess of those hours.

6.1.2 Disciplinary and grievance procedures

There must be a disciplinary and grievance procedure that employees can refer to, if either their employer takes disciplinary procedures against them or if they have any concerns about their employment. ACAS provides guidance.

<https://www.acas.org.uk/acas-code-of-practice-on-disciplinary-and-grievance-procedures>.

The FWA must include information about how to access this procedure.

6.1.3 Pension benefits

There is no requirement for the employer of fishermen on UK fishing vessels to provide a pension scheme, but the Agreement must say whether or not there is such a scheme.

7. Fishermen's complaints

7.1 In the event of any dispute regarding the application of a FWA, or the terms and conditions contained therein, in the first instance the fisherman should take this up with their management or the fishing vessel owner under the applicable Disciplinary and Grievance procedure.

7.2 If the on-board procedure fails to resolve a complaint, the fisherman may raise it with an authorised officer in the port where the fishing vessel is moored or anchored. Where the fishing vessel is in a port in the UK the complaint should be reported to the nearest MCA Marine Office.

7.3 Should these two steps fail to resolve the complaint or, for any other reason, action in the courts becomes necessary, it should be noted that whilst UK ships are subject to UK law, powers to determine a matter are not restricted to the UK courts. A fisherman or fishing vessel owner may undertake proceedings in a court in another country, although such proceedings should normally take account of relevant UK law.

7.4 For additional information about making complaints refer to MGN 589 (F)



More Information

Seafarer Services – Safety and Health
Maritime and Coastguard Agency
Bay 2/17
Spring Place
105 Commercial Road
Southampton
SO15 1EG

Tel: +44 (0) 203 8172202
e-mail: workinfishing.convention@mcga.gov.uk

Website Address: www.gov.uk/government/organisations/maritime-and-coastguard-agency

General Enquiries: infoline@mcga.gov.uk

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telephone numbers are correct at time of publishing

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MODEL FORMATS FOR A FISHERMAN’S WORK AGREEMENT

(1) EMPLOYED FISHERMEN

This Agreement is between:-

(1).....
(insert Fisherman’s full name) hereinafter called the Fisherman

..... *(insert date of birth or age (see Note 1)*

.....*(insert place of birth – town and country)*

AND

(2)

.....
(insert name of fishing vessel owner or Employer* as appropriate - see Note 2(1)) hereinafter called the fishing vessel owner* / employer**

OF.....

.....
(insert full address of fishing vessel owner or Employer* as appropriate)*

****ADDITIONALLY, WHERE THE FISHERMAN IS EMPLOYED AND THE FISHING VESSEL OWNER IS NOT THE EMPLOYER OF THE FISHERMAN, THE FOLLOWING IS TO BE COMPLETED BY THE FISHING VESSEL OWNER (Note this should be deleted where the fishing vessel owner is the employer)***

***3. I / We**
(insert fishing vessel owner’s name)

OF

.....
(insert fishing vessel owner’s full address)*

* Delete if not applicable

hereby guarantee that in the event of the employer named at (2) above failing, for whatever reason, to meet its obligations to the Fisherman named at (1) above under the terms of this Fisherman’s Work Agreement I / We* as fishing vessel owner(s) undertake to meet those obligations to that Fisherman and at no cost to that Fisherman.

Place where this Agreement is entered into(see Note 3)

Date when this Agreement is entered into



Place of Work

You will be employed on [vessel name and registration number*] [any vessel owned, managed or chartered by the fishing vessel owner*]. (see Note 4) * Delete whichever is not applicable

Voyage or voyages to be undertaken (if this can be determined at the time of making the agreement)

Capacity in which Fisherman is to be employed

The capacity in which you are initially employed is (insert capacity)(see Note 5)

Place and date Fisherman is to report onboard for service (if possible)

.....

Provisions to be provided to the Fisherman (if applicable) (see Note 6)

.....

Wages (see Note 7)

Your wages will be (insert amount and currency) per week*/month*/year* (delete as appropriate) (or insert formula for determining wages)

Means of payment of Wages

Your wages will be payable by..... [insert method of payment] at weekly*/monthly* (delete as appropriate) intervals on the[insert number] day of each week*/month* (delete as appropriate)

[Overtime hours i.e. hours worked outside of normal **hours of work** will be paid at a rate of(insert overtime rate)] (Delete this sentence if not applicable)

Notice of Termination of Agreement (Delete whichever is not applicable) (See Note 8)

(a) Definite Period Agreement

Your employment is for a period commencing on[insert date] and ending on [insert date] unless it is terminated for justified reasons in advance of this point or the ship is at sea at that time in which event it will continue until its arrival in port at which point it will terminate.

OR

(b) Voyage Agreement

Your employment is for the length of the voyage of [ship] commencing on[insert date] from the port of.....[insert name of port] until[insert date] or [her arrival in the port of[insert name of



port]] at which point it will terminate, unless it is terminated for justified reasons in advance of this point.

OR

(c) Indefinite Agreement

The length of notice which you are obliged to give to terminate your employment is [*insert notice period*].

The length of notice which you are entitled to receive from the fishing vessel owner to terminate your employment is [*insert notice period which is to be not less the notice period the fisherman is required to give*].

Protection for fishermen in the event of sickness, injury or death in connection with service and the health and social security coverage and benefits

(see Notes 9 and 10)

If you become sick or injured while on a voyage, you will be paid your normal basic wages until you have been repatriated in accordance with the repatriation provisions set out below.

If you require medical care while you are on board this will be provided free of charge, including access to necessary medicines, medical equipment and facilities for diagnosis and treatment and medical information and expertise. Where practicable and appropriate, you will be given leave to visit a qualified medical doctor or dentists in ports of call for the purpose of obtaining necessary treatment.

In the event of sickness or incapacity, any costs of your medical care not met by the host country will be met by the fishing vessel owner; you will be provided with medical care, including medical treatment and the supply of necessary medicines and therapeutic devices and, if necessary, board and lodging away from home until your recovery subject to a maximum period of.....weeks [*insert number*], or until you can be repatriated, whichever is later.

In addition the fishing vessel owner will return your property left on board to you or your next of kin.

In the event of your death occurring on board or ashore during a voyage, the fishing vessel owner will meet the cost of burial expenses, or cremation where appropriate or required by local legislation [*or repatriate the body where appropriate*], and will return your property left on board to your next of kin.

Paid Leave *(see Note 11)*

You are entitled to take(*insert number*) weeks as paid leave in each year of employment. [You will be paid your normal wages during such leave.]

If your employment commenced or terminates part way through the holiday year, your entitlement to paid annual leave will be assessed on a pro rata basis. Deductions from final salary due to you on termination of employment will be made in respect of any paid annual leave taken in excess of your entitlement.



You will be entitled to payment in lieu of paid leave accrued but not taken at the date of termination of employment.

Repatriation (see Note 12)

You will be entitled to repatriation, at the expense of the fishing vessel owner, if you are in a foreign port when this agreement is terminated:-

- when this agreement expires;
- when this agreement is terminated -
 - by the fishing vessel owner, for justified reasons;
 - by you, for justified reasons;
- in circumstances where you are no longer able to carry out your duties under this agreement or cannot be expected to do so.

The entitlement to repatriation entails transport by(*insert means of transport*) to.....(*insert place name or country*):.

NOTE - You may not be entitled to repatriation at the expense of the fishing vessel owner in circumstances where you have been dismissed for serious misconduct. In such circumstances the fishing vessel owner will still be liable to repatriate you but is entitled to recover from any wages due to you the cost of doing so.

Maximum duration of service periods after which you are entitled to repatriation

The maximum period of service following which you will be entitled to repatriation at no cost to you isweeks (*insert number of weeks*) (See Note 13)

ADDITIONAL PARTICULARS REQUIRED TO BE INCLUDED BY UNITED KINGDOM LAW

Hours of Work (see Note 14)

Your normal hours of work are [*Insert normal weekly hours or pattern of work, and any differences in rate of pay for hours worked in excess of this, as applicable*],

Grievance and Disciplinary Procedures

(a) Grievances

If you have a grievance regarding your employment you should follow the fishing vessel owner's grievance procedure a copy of which will be provided to you when you join the vessel.

(b) Disciplinary Rules and Procedure

The disciplinary rules applicable to you are set out in the (enter appropriate reference(s)).

If you are dissatisfied with any disciplinary decision taken in relation to you, you should refer to the disciplinary procedure.

(c) Pension benefits (*Delete which ever is not applicable*) (see Note 15)

You will be entitled to the following pension or other benefits(*insert full details including whether contributory (if so at what rate(s)) or non-contributory and when payable etc*).



OR

You will be entitled to join thepension scheme (insert details)

OR

There is no pension or other benefit entitlement attached to this employment.

WELFARE CLAUSE

You have the fundamental right to reasonable access to the full range of available welfare services, including national human rights provisions and protections. This includes the right to medical treatment ashore. If you are denied reasonable access to these services, you have the right to seek assistance through appropriate channels.

ADDITIONAL PROVISIONS INCLUDED BY FISHING VESSEL OWNER

(See Note 16)

.....

CERTIFICATION BY FISHING VESSEL OWNER AND FISHERMAN (see Note 17)

By signing this Agreement the undersigned Fisherman, and the undersigned fishing vessel owner, each confirm that the Fisherman has:-

1. been given the opportunity to review and seek advice on their FWA;
2. received an explanation of their rights and responsibilities under the agreement before signing it, and
3. has entered into the agreement freely;
4. has been offered a translation into his or her own language.

Signature of Fisherman

Signature of Fishing vessel owner or Fishing vessel owner's representative

..... (State position held)

*Signature of Employer or Employer's representative

(State position held)



NOTES

Note 1 - “insert date of birth or age” - Normally the date of birth in full (Day, Month, Year). Fisherman’s age at the time the FWA was signed should used **only** where there is no means of establishing the Fisherman’s date of birth.

Note 2 - “Name and Address of employer or fishing vessel owner or other party to the fisherman’s work agreement”

(1) For employed fishermen

If the Fisherman is employed, the name and address of the employer should be inserted at Point (2) of this model FWA.

[If the Fisherman does not have an employer, the alternative form of Work Agreement should be used for non-employed fishermen - see ANNEX B or C.]

(2) For self-employed share fishermen

Insert the name and address of the fishing vessel owner or manager, who takes responsibility for ensuring that the terms and conditions under which the fisherman works compliance with the Work in Fishig Convention n board the fishing vessel.

Note 3 – “The Place where Agreement is entered into” : the name of village, town or city (and if outside the UK, the country), or the name and port of registry of the fishing vessel, where the Agreement is signed by the parties to it.

Note 4 – “Place of Work” :

EITHER the name and registered number of the vessel on which the Fisherman is to work, where this is known;

OR

where the Fisherman may be employed on more than one vessel, enter *“Place of Work may be on any vessel owned, managed or chartered by [insert name of the fishing vessel owner]”*.

Note 5 - “Capacity in which Fisherman is to be employed/engaged” - The capacity in which the Fisherman is to be employed/engaged at the time the FWA is signed by the parties to it. See also note 18.

Note 6 – Provisions to be supplied – Arrangements for food and potable water on board. For a self-employed share fisherman, this should state whether/how the cost of food and water will be charged as a running cost of the vessel.

Note 7 Payment of fishermen

(1) For employed fishermen

The amount of wages, or the amount of the wage and share and the method of calculating the latter if remuneration is to be on a combined basis, and any agreed minimum wage. When wages will be paid and by what method (cash/bank transfer etc).

(2) For self-employed share fishermen

This section must set out how and when the fisherman will be remunerated, including how the share of the catch is calculated, and identify any deductions, and how they will be calculated.

Note 8 - Notice of Termination of Agreement - The period of notice required to be given to the Fisherman by the fishing vessel owner must not be less than that required to be given to the fishing



vessel owner by the Fisherman. Share fishermen and fishing vessel owners engaging share fishermen are not required to give notice to each other.

Note 9 – Protection in the event of sickness, injury or death in connection with service

This will include provision for compensation from the fishing vessel owner in case of occupational injury, sickness or death payable from financial security provided under regulation 27 of the Merchant Shipping (Work in Fishing Convention) Regulations 2018.

Note 10 – Health and Social Security Protection Benefits

This includes payment by the fishing vessel owner of any costs of medical care in respect of any sickness or injury occurring during the term of the FWA and until the Fisherman is repatriated.

On a UK registered vessel the provision of medical care includes any surgical or medical treatment or such dental or optical treatment (including the repair or replacement of any appliance) which is necessary during the term of the FWA.

In case of wreck or loss of the ship, employed crew members are entitled to wages at the rate payable under their work agreement (excluding any element based on a share of the catch) for any period of unemployment as a result of the wreck or loss, for up to two months (s38 of the MSA 1995 as modified by s 114).

Note 11 –“Paid Leave” (employed fishermen only) - The period of paid leave per annum is primarily a matter between the fishing vessel owner or employer if different and the Fisherman but must be not less than the period of statutory paid leave specified in the Merchant Shipping (Working Time: Sea Fishing) Regulations 2004 (as amended)

- 4 weeks per annum, (pro rata for periods of less than one year or part time employees) plus
- 1.6 weeks of additional leave in respect of public holidays per annum, or pro rata for periods of less than one year or part time employees;

subject to a maximum of 28 days. Where it is more appropriate to do so, the formula to be used for calculating annual leave may be stated.

Note 12 - Repatriation – Circumstances in which the fisherman may no longer be able to carry out their duties may include -

- shipwreck
- the sale of the vessel or a change in the vessel’s registration
- illness or injury or other medical condition, diagnosed by a Doctor as requiring repatriation,
- fishing vessel is proceeding to a [war zone or high risk area for piracy;]

The destination for repatriation should be stated in the fisherman’s work agreement. If not stated, the fisherman is entitled to be repatriated to one of the following:

- the place where the Fisherman entered into their employment agreement;
- their country of residence.

Note 13 - Maximum duration of service periods after which you are entitled to repatriation

The maximum period of service following which a Fisherman will be entitled to repatriation is to be not more than 52 weeks minus the period of statutory paid annual leave (where applicable - see *note 11*). Fishing vessel owners/employers must not require a Fisherman to continue to serve on board once the maximum period of service has expired except in an emergency or similar extenuating circumstances.

There is no statutory obligation on a fisherman to take repatriation at that time if he/she chooses to serve on board for a longer period e.g. to complete a period of sea time for certification purposes. However, the fisherman has a duty to ensure that they are not putting the health and safety of others at risk and should consider whether extending their contract may lead to fatigue.



Note 14 - Hours of Work (included in FWA for employed fishermen only) The hours of work for fishermen on UK registered vessels must comply with the requirements of the Merchant Shipping (Sea-fishing: Working Time) Regulations 2004 (as amended) and MSN 1884(F).

For employed fishermen, this section should indicate the normal hours for which they are paid and any provision for overtime and the rate paid for that.

Note 15 - Pension benefits (employed fishermen only) Details of any employer pension scheme must be recorded, if applicable. In addition, where the employer makes deductions from the Fishermen wages towards any additional pension benefits (e.g. State Pension) to which a Fisherman may be entitled, it is recommended this is noted.

Note 16 - Non compliant provisions in FWAs - Examples of clauses which would not be acceptable under UK law, include:-

- (a) **requiring that all Fishermen belong to a union or forbidding membership of a union** - *Under ILO Convention 87 on Freedom of Association, which has been ratified by the UK, workers are free to form and join appropriate organisations of their own choosing, but equally under UK law they cannot be required to do so. However, it is not acceptable for fishing vessel owners, employers or anyone else to discriminate against, or take action against those who either choose to join a union or who choose not to join a union.*
- (b) **requiring that Fishermen join a specified union** - *Apart from the previous provision regarding choice on whether or not to join a union, such a provision would also conflict with the International Labour Organisation Convention on Freedom of Association. This Convention has been ratified by the UK and provides that workers shall be free to form and join organisations of their own choosing. It is however acceptable to promote membership of a trade union that has signed a collective agreement with the fishing vessel owner albeit without an obligation on the Fisherman to join that union.*
- (c) **requiring that by signing the agreement Fishermen automatically agree to medical information about themselves being passed to the fishing vessel owner or another party acting on behalf of the fishing vessel owner.** - *This is not acceptable and may only be done with the specific prior authority of the Fisherman on each occasion the fishing vessel owner requests that such information be made available.*
- (d) **requiring that by signing the agreement Fishermen automatically agree to sensitive personal data (as defined in the Data Protection Act) about them being passed to other individuals or organizations as determined appropriate by the fishing vessel owner or another party acting on behalf of the fishing vessel owner.** - *This also is not acceptable as such individuals/organisations may potentially be located in countries that do not have data protection legislation or have legislation that does not provide similar protection to that of the UK. Such transfer of “sensitive personal information” may only be undertaken with the specific prior authority of the Fisherman on each occasion the fishing vessel owner proposes that such information be passed to another individual or organisation.*
- (e) **requiring that a Fisherman bear the cost of his repatriation, and the cost of providing his replacement, should he terminate his employment prior to completing the specified period of employment even though he gave the period of notice to terminate his employment that was required by the agreement.** - *Under UK legislation a Fisherman can only be charged the cost of his repatriation if he has breached his obligations under the agreement or has been dismissed on disciplinary grounds. The giving of the period of notice specified in the agreement would not constitute breach of the Fisherman’s obligations even if it terminated his employment before the date envisaged in the agreement.*



- (f) **requiring payment, or deduction of wages, for items which the UK legislation requires to be provided free of charge, for example, accommodation, food and catering, provision of personal protective equipment, medical care** - *The Wages Regulations applicable to Fishermen only permit certain specified deductions to be automatically made from the wages due to a Fisherman. For employed fishermen, these do not include costs incurred in providing accommodation, food and catering, personal protective equipment and medical care to Fishermen.*

the levying of fines on a Fisherman by a fishing vessel owner in respect of a breaches of that Fisherman's obligations under his FWA or for breaches of discipline. - *No provision exists under UK Merchant Shipping law for fines to be levied on Fishermen by fishing vessel owners in respect of disciplinary offences .*

This list is illustrative only and should not be taken as listing all provisions that would be considered unacceptable.

Note 17 – “Certification by Fishing vessel owner and Fisherman”

Fishermen signing an FWA must be given an opportunity to examine and seek advice on the terms and conditions of that agreement before signing it, and have any other facilities they need to ensure that they have freely entered into the FWA with a sufficient understanding of their rights and responsibilities.

Note 18 - Changes during the period of validity of the FWA - If during the validity of the FWA, the capacity in which the Fisherman is employed, their wages or the way they are paid is likely to change, the fishing vessel owner may wish to consider whether a new FWA should be issued in such circumstances or alternatively could include a provision in the FWA indicating how any changes to capacity will be dealt with e.g. by means of a letter.



MODEL FORMAT FOR A FISHERMAN’S WORK AGREEMENT
(2) SELF-EMPLOYED SHARE FISHERMEN

This Agreement is between:-

(1).....
(insert Fisherman’s full name) hereinafter called the Fisherman

..... *(insert date of birth or age (see Note 1)*

.....*(insert place of birth – town and country)*

AND

(2)

.....
(insert name of fishing vessel, hereinafter called the “fishing vessel” (see Note 2(2))

OF.....

.....
(insert full address of fishing vessel)

Place where this Agreement is entered into*(see Note 3)*

Date when this Agreement is entered into

Place of Work

You will be engaged on [vessel name and registration number*] [any vessel owned, managed or chartered by the fishing vessel owner*. *(see Note 4)*] * Delete whichever is not applicable

Voyage or voyages to be undertaken (if this can be determined at the time of making the agreement)

Capacity in which Fisherman is to be engaged

The capacity in which you are initially engaged is *(insert capacity)(see Note 5)*

Place and date Fisherman is to report onboard for service (if possible)

.....
.....



Provisions to be provided to the Fisherman (see Note 6)

.....
.....
Payment of share of the catch (See Note 7)

You will receive a share of the catch based on % of the gross earnings for the trip, after deductions for:

- a) fuel, calculated on the basis of
- b) food, as at cost of per day
- c)

When payment is due, you will receive a copy of the accounts [drawn up under Reg 5(1) of the Merchant Shipping (Seaman’s wages and accounts) Regulations 1972] or the relevant extract from it, showing how the amounts due in respect of your share are calculated.

Notice of Termination of Engagement (Delete whichever is not applicable) (See Note 8)

(a) Definite Period Agreement

Your engagement is for a period commencing on[insert date] and ending on [insert date] unless it is terminated for justified reasons in advance of this point or the ship is at sea at that time in which event it will continue until its arrival in port at which point it will terminate.

OR

(b) Voyage Agreement

Your engagement is for the length of the voyage of [ship] commencing on[insert date] from the port of.....[insert name of port] until[insert date] or [her arrival in the port of[insert name of port]] at which point it will terminate, unless it is terminated for justified reasons in advance of this point.

OR

(c) Indefinite Agreement

The length of notice which you are obliged to give to terminate your engagement is

The length of notice which you are entitled to receive from the fishing vessel owner to terminate your engagement is

Protection for fishermen in the event of sickness, injury or death in connection with service and the health and social security coverage and benefits

(see Notes 9 and 10)

If you become sick or injured while on a voyage, you will be paid your normal basic wages until you have been repatriated in accordance with the repatriation provisions set out below.



If you require medical care while you are on board this will be provided free of charge, including access to necessary medicines, medical equipment and facilities for diagnosis and treatment and medical information and expertise. Where practicable and appropriate, you will be given leave to visit a qualified medical doctor or dentists in ports of call for the purpose of obtaining necessary treatment.

In the event of sickness or incapacity, any costs of your medical care not met by the host country will be met by the fishing vessel owner; you will be provided with medical care, including medical treatment and the supply of necessary medicines and therapeutic devices and, if necessary, board and lodging away from home until your recovery subject to a maximum period of.....weeks [*insert number*], or until you can be repatriated, whichever is later.

In addition the fishing vessel owner will return your property left on board to you or your next of kin.

In the event of your death occurring on board or ashore during a voyage, the fishing vessel owner will meet the cost of burial expenses, or cremation where appropriate or required by local legislation [*or repatriate the body where appropriate*], and will return your property left on board to your next of kin.

Repatriation (see Note 12)

You will be entitled to repatriation, at the expense of the fishing vessel owner, if you are in a foreign port when this agreement is terminated:-

- when this agreement expires;
- when this agreement is terminated –
 - by the fishing vessel owner for justified reasons;
 - by you for justified reasons;
- in circumstances where you are no longer able to carry out your duties under this agreement or cannot be expected to do so.

The entitlement to repatriation entails transport by(*insert means of transport*) to.....(*insert place name or country*):.

NOTE - You may not be entitled to repatriation at the expense of the fishing vessel owner in circumstances where you have been dismissed for serious misconduct. In such circumstances the fishing vessel owner will still be liable to repatriate you but is entitled to recover from any sums due to you the cost of doing so.

Maximum duration of service periods after which you are entitled to repatriation

The maximum period of service following which you will be entitled to repatriation at no cost to you isweeks (*insert number of weeks*) (See Note 13)

Grievance Procedures



If you have a grievance regarding your engagement, you should follow the fishing vessel owner's grievance procedure a copy of which will be provided to you when you join the vessel.

WELFARE CLAUSE

You have the fundamental right to reasonable access to the full range of available welfare services, including national human rights provisions and protections. This includes the right to medical treatment ashore. If you are denied reasonable access to these services, you have the right to seek assistance through appropriate channels.

ADDITIONAL PROVISIONS INCLUDED BY FISHING VESSEL OWNER

(See Note 16)

.....

CERTIFICATION BY FISHING VESSEL OWNER AND FISHERMAN *(see Note 17)*

By signing this Agreement the undersigned Fisherman, and the undersigned fishing vessel owner, each confirm that the Fisherman has:-

- 1. been given the opportunity to review and seek advice on their FWA;
- 2. received an explanation of their rights and responsibilities under the agreement before signing it, and
- 3. has entered into the agreement freely.

Signature of Fisherman

.....

Signature of Fishing vessel owner or Fishing vessel owner's representative

..... *(State position held)*



NOTES

Note 1 - “insert date of birth or age” - Normally the date of birth in full (Day, Month, Year). Fisherman’s age at the time the FWA was signed should used **only** where there is no means of establishing the Fisherman’s date of birth.

Note 2 - “Name and Address of employer or fishing vessel owner or other party to the fisherman’s work agreement”

(3) For employed fishermen

If the Fisherman is employed, the name and address of the employer should be inserted at Point (2) of this model FWA.

[If the Fisherman does not have an employer, the alternative form of Work Agreement should be used for non-employed fishermen - see ANNEX B or C.]

(4) For self-employed share fishermen

Insert the name and address of the fishing vessel owner or manager, who takes responsibility for ensuring that the terms and conditions under which the fisherman works compliance with the Work in Fishig Convention n board the fishing vessel.

Note 3 – “The Place where Agreement is entered into” : the name of village, town or city (and if outside the UK, the country), or the name and port of registry of the fishing vessel, where the Agreement is signed by the parties to it.

Note 4 – “Place of Work” :

EITHER the name and registered number of the vessel on which the Fisherman is to work, where this is known;

OR

where the Fisherman may be employed on more than one vessel, enter *“Place of Work may be on any vessel owned, managed or chartered by [insert name of the fishing vessel owner]”*.

Note 5 - “Capacity in which Fisherman is to be employed/engaged” - The capacity in which the Fisherman is to be employed/engaged at the time the FWA is signed by the parties to it. See also note 18.

Note 6 – Provisions to be supplied – Arrangements for food and potable water on board. For a self-employed share fisherman, this should state whether/how the cost of food and water will be charged as a running cost of the vessel.

Note 7 Payment of fishermen

(3) For employed fishermen

The amount of wages, or the amount of the wage and share and the method of calculating the latter if remuneration is to be on a combined basis, and any agreed minimum wage. When wages will be paid and by what method (cash/bank transfer etc).

(4) For self-employed share fishermen

This section must set out how and when the fisherman will be remunerated, including how the share of the catch is calculated, and identify any deductions, and how they will be calculated.



Note 8 - Notice of Termination of Agreement - The period of notice required to be given to the Fisherman by the fishing vessel owner must not be less than that required to be given to the fishing vessel owner by the Fisherman. Share fishermen and fishing vessel owners engaging share fishermen are not required to give notice to each other.

Note 9 – Protection in the event of sickness, injury or death in connection with service

This will include provision for compensation from the fishing vessel owner in case of occupational injury, sickness or death payable from financial security provided under regulation 27 of the Merchant Shipping (Work in Fishing Convention) Regulations 2018.

Note 10 – Health and Social Security Protection Benefits

This includes payment by the fishing vessel owner of any costs of medical care in respect of any sickness or injury occurring during the term of the FWA and until the Fisherman is repatriated.

On a UK registered vessel the provision of medical care includes any surgical or medical treatment or such dental or optical treatment (including the repair or replacement of any appliance) which is necessary during the term of the FWA.

In case of wreck or loss of the ship, employed crew members are entitled to wages at the rate payable under their work agreement (excluding any element based on a share of the catch) for any period of unemployment as a result of the wreck or loss, for up to two months (s38 of the MSA 1995 as modified by s 114).

Note 11 –“Paid Leave” (employed fishermen only) - The period of paid leave per annum is primarily a matter between the fishing vessel owner or employer if different and the Fisherman but must be not less than the period of statutory paid leave specified in the Merchant Shipping (Working Time: Sea Fishing) Regulations 2004 (as amended)

- 4 weeks per annum, (pro rata for periods of less than one year or part time employees) plus
- 1.6 weeks of additional leave in respect of public holidays per annum, or pro rata for periods of less than one year or part time employees;

subject to a maximum of 28 days. Where it is more appropriate to do so, the formula to be used for calculating annual leave may be stated.

Note 12 - Repatriation – Circumstances in which the fisherman may no longer be able to carry out their duties may include -

- shipwreck
- the sale of the vessel or a change in the vessel’s registration
- illness or injury or other medical condition, diagnosed by a Doctor as requiring repatriation,
- fishing vessel is proceeding to a [war zone or high risk area for piracy;]

The destination for repatriation should be stated in the fisherman’s work agreement. If not stated, the fisherman is entitled to be repatriated to one of the following:

- the place where the Fisherman entered into their employment agreement;
- their country of residence.

Note 13 - Maximum duration of service periods after which you are entitled to repatriation

The maximum period of service following which a Fisherman will be entitled to repatriation is to be not more than 52 weeks minus the period of statutory paid annual leave (where applicable - see *note 11*). Fishing vessel owners/employers must not require a Fisherman to continue to serve on board once the maximum period of service has expired except in an emergency or similar extenuating circumstances.

There is no statutory obligation on a fisherman to take repatriation at that time if he/she chooses to serve on board for a longer period e.g. to complete a period of sea time for certification



purposes. However, the fisherman has a duty to ensure that they are not putting the health and safety of others at risk and should consider whether extending their contract may lead to fatigue.

Note 14 - Hours of Work (included in FWA for employed fishermen only) The hours of work for fishermen on UK registered vessels must comply with the requirements of the Merchant Shipping (Sea-fishing: Working Time) Regulations 2004 (as amended) and MSN 1884(F).

For employed fishermen, this section should indicate the normal hours for which they are paid and any provision for overtime and the rate paid for that.

Note 15 - Pension benefits (employed fishermen only) Details of any employer pension scheme must be recorded, if applicable. In addition, where the employer makes deductions from the Fishermen wages towards any additional pension benefits (e.g. State Pension) to which a Fisherman may be entitled, it is recommended this is noted.

Note 16 - Non compliant provisions in FWAs - Examples of clauses which would not be acceptable under UK law, include:-

- (g) **requiring that all Fishermen belong to a union or forbidding membership of a union** - *Under ILO Convention 87 on Freedom of Association, which has been ratified by the UK, workers are free to form and join appropriate organisations of their own choosing, but equally under UK law they cannot be required to do so. However, it is not acceptable for fishing vessel owners, employers or anyone else to discriminate against, or take action against those who either choose to join a union or who choose not to join a union.*
- (h) **requiring that Fishermen join a specified union** - *Apart from the previous provision regarding choice on whether or not to join a union, such a provision would also conflict with the International Labour Organisation Convention on Freedom of Association. This Convention has been ratified by the UK and provides that workers shall be free to form and join organisations of their own choosing. It is however acceptable to promote membership of a trade union that has signed a collective agreement with the fishing vessel owner albeit without an obligation on the Fisherman to join that union.*
- (i) **requiring that by signing the agreement Fishermen automatically agree to medical information about themselves being passed to the fishing vessel owner or another party acting on behalf of the fishing vessel owner.** - *This is not acceptable and may only be done with the specific prior authority of the Fisherman on each occasion the fishing vessel owner requests that such information be made available.*
- (j) **requiring that by signing the agreement Fishermen automatically agree to sensitive personal data (as defined in the Data Protection Act) about them being passed to other individuals or organizations as determined appropriate by the fishing vessel owner or another party acting on behalf of the fishing vessel owner.** - *This also is not acceptable as such individuals/organisations may potentially be located in countries that do not have data protection legislation or have legislation that does not provide similar protection to that of the UK. Such transfer of “sensitive personal information” may only be undertaken with the specific prior authority of the Fisherman on each occasion the fishing vessel owner proposes that such information be passed to another individual or organisation.*
- (k) **requiring that a Fisherman bear the cost of his repatriation, and the cost of providing his replacement, should he terminate his employment prior to completing the specified period of employment even though he gave the period of notice to terminate his employment that was required by the agreement.** - *Under UK legislation a Fisherman can only be charged the cost of his repatriation if he has breached his obligations under the agreement or has been dismissed on disciplinary grounds. The giving of the period of notice specified in the agreement would not constitute breach of the*



Fisherman's obligations even if it terminated his employment before the date envisaged in the agreement.

- (l) **requiring payment, or deduction of wages, for items which the UK legislation requires to be provided free of charge, for example, accommodation, food and catering, provision of personal protective equipment, medical care** - *The Wages Regulations applicable to Fishermen only permit certain specified deductions to be automatically made from the wages due to a Fisherman. For employed fishermen, these do not include costs incurred in providing accommodation, food and catering, personal protective equipment and medical care to Fishermen.*

the levying of fines on a Fisherman by a fishing vessel owner in respect of a breaches of that Fisherman's obligations under his FWA or for breaches of discipline. - *No provision exists under UK Merchant Shipping law for fines to be levied on Fishermen by fishing vessel owners in respect of disciplinary offences .*

This list is illustrative only and should not be taken as listing all provisions that would be considered unacceptable.

Note 17 – “Certification by Fishing vessel owner and Fisherman”

Fishermen signing an FWA must be given an opportunity to examine and seek advice on the terms and conditions of that agreement before signing it, and have any other facilities they need to ensure that they have freely entered into the FWA with a sufficient understanding of their rights and responsibilities.

Note 18 - Changes during the period of validity of the FWA - If during the validity of the FWA, the capacity in which the Fisherman is employed, their wages or the way they are paid is likely to change, the fishing vessel owner may wish to consider whether a new FWA should be issued in such circumstances or alternatively could include a provision in the FWA indicating how any changes to capacity will be dealt with e.g. by means of a letter.

