

The Work in Fishing Vessel Convention (ILO188)

We are working towards implementation of ILO 188 into UK Law. This table shows how ILO 188 might affect you and what you need to do to comply with the new UK regulations. We propose implementing the Convention through 4 new statutory instruments which are included as part of this consultation package

Follow the link below to view the ILO 188 Convention.

http://www.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:12100:0::NO::P12100_ILO_CODE:C188

Statutory Instruments: Merchant Shipping (Work in Fishing Convention) Regulations 2017 – “WIFC Regs”
 Merchant Shipping (Work in Fishing Convention) (Medical Certification) Regulations 2017 – “Med cert Regs”
 Merchant Shipping (Work in Fishing Convention) (Survey and Certification) Regulations 2017 – “S&C Regs”
 Merchant Shipping (Work in Fishing Convention) (Consequential Provisions) Regulations 2017 – “Cons Regs”

Convention Requirement	Proposed UK Regulations	What this means for you	Notes/ Questions
Responsibilities of fishing vessel owners, skippers and fishermen Article 8 Details the responsibilities of the owner. The skipper and the fishermen for resources and facilities, health	WIFC Regs apply Article 8.4 All other provisions covered in existing legislation. SI1997/2962 to be amended by Cons Regs	The majority of these provisions already exist in UK Law and have not changed. All Fishermen Obligation to comply with orders. You must at all times comply with the lawful orders of your skipper regarding health and safety. If you fail to do so you are committing an offence. Owners and Skippers As an owner or skipper of a fishing vessel you must continue to comply with your responsibilities towards health and safety as set out in SI 1997/2962 the Merchant	The provision that fishermen should comply with the lawful orders of the Skipper is new and implements Article 8.4 of ILO 188 into law. <i>Do you agree that this is the right approach to take?</i>

and safety and good seamanship.		Shipping and Fishing Vessels (Health and Safety at Work) Regulations, but those duties now extend to all fishermen.	
Minimum Age Article 9	WIFC Regs S.I. 1998/2411 to be amended to apply to share fishermen? Regs 6 and 7	<p>All Fishermen You must be over 16 years of age to work onboard a fishing vessel and have completed all the required training [MGN 411] before you join a vessel.</p> <p>You may not work at night until you are 18 years of age except as part of an established training programme or because the regular operation of the boat includes night fishing.</p> <p>Skippers and employers of fishermen under the age of 18. The MCA holds you responsible for the health and safety and morals of a person under the age of 18 working on your boat at all times. If you are found to be in breach of these requirements which apply to young people, you may face prosecution.</p> <p>You must make sure that the young person has completed all the compulsory safety training prior to joining your boat this information is currently in MGN 411. https://www.gov.uk/government/publications/mgn-411-cert-req-for-crew-of-fv-their-use-to-vessels-yachts</p> <p>You must demonstrate to the satisfaction of the MCA that you have delivered onboard training to the young person to enable them to complete assigned tasks safely.</p>	<p>If you live in England and are under the age of 18 and have not attained level 3 qualifications you should continue your education until your 18th birthday. You can combine full time working with part time study and are advised to consult your local Education Authority</p> <p>https://www.gov.uk/government/publications/participation-of-young-people-education-employment-and-training</p> <p>You can find information about available training for new entrants to the fishing industry on the Seafish Website.</p> <p>http://www.seafish.org/training/seagoing-training</p>

		<p>You may not assign hazardous tasks to a young person (except in the context of training, when they must be supervised) and be prepared to evidence to the MCA through your written risk assessment and other documents that the tasks you have assigned to the young person are not hazardous. [Hazardous tasks include work in enclosed spaces; unhealthy work (noise, vibration, movement, etc.) working with machinery and equipment or dangerous tools; manual carrying of heavy loads and the launching and recovery of nets]</p> <p>Further guidance can be found in: MGN 473 and any subsequent replacement. https://www.gov.uk/government/publications/mgn-411-cert-req-for-crew-of-fv-their-use-to-vessels-yachts</p> <p>Work Experience. As a skipper or an employer you may take a person over the age of 15 years of age for work experience and job shadowing on your boat during the school holidays. But you must ensure that the person has completed an MCA recognised course in Basic Survival at sea prior to joining the boat.</p> <p>You must demonstrate to the satisfaction of the MCA [through a written risk assessment] that they are only engaged in light work or job shadowing and that their health and safety and morals are not in jeopardy.</p>	
Medical Examinations Certificates and	Med cert Regs	<p>All Fishermen Will need a valid medical fitness certificate to work on board Fishing Vessels.</p>	All fishermen who need an ENG 1 Medical certificate will need to get one before the new UK regulations come into force (expected to be in March 2018). However, you are advised to

<p>Requirements Articles 10 -12</p>		<p>If you hold an MCA CoC as Skipper or you work in any capacity on board a FV of over 24m in length or a smaller vessel that goes to sea for more than 3 days at a time you must have a medical fitness certificate ENG1 or equivalent. Guidance about getting a medical certificate can be found two draft MSNs that form part of this consultation package.</p> <p>MSN – Medical fitness standards. MSN – Medical examination procedures MSN Eyesight tests (under 24m vessels only) – replacing MSN 1745</p> <p>A list of approved doctors can be found on the MCA’s website https://www.gov.uk/government/publications/mca-approved-doctors-uk-based</p> <p>A list of the countries whose seafaring medical certificates are acceptable for use on UK ships instead of a UK ENG1 can be found on our web site. https://www.gov.uk/government/publications/msn-1815-countries-that-can-issue-eng-1-equivalents</p> <p>If you work on smaller fishing vessels that do not go to sea for more than 3 days at a time you need to get an ML5 Certificate. These will be phased in in 2019</p> <p>Skippers and owners are responsible for checking that fishermen have the appropriate medical certification before they join a vessel.</p>	<p>wait until November 2017 when Approved Doctors will receive training on the extension of the ENG1 to fishermen.</p> <p>The requirement for ML5 Certificates will be phased in from 2019</p> <p>In the MSN on medical fitness standards, Annex A lists the UK medical fitness standards. Changes from the current standards (as listed in in MSN 1839(M)) are in red text. Most are corrections/clarifications but see in particular 7.1, 8.5, 10.5, 13.3 and notes to the table in Appendix 1 (Eyesight standards)</p> <p><i>Do you agree with our approach to medical certification.?</i></p>
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Manning and hours of rest- Articles 13 and 14	<p>Cons Regs amending SI 2014/1713 Fishing Vessel (Working Time: Seafishermen regulations 2004 and</p> <p>SI 1997/2962 The Merchant Shipping and Fishing Vessels (Health and Safety at work) Regulations 1997 and</p> <p>Fishing Vessel (Certification of Deck Officers and Engineer Officers) Regulations 1984 part II Manning requirements</p>	<p>All Fishermen</p> <p>The requirement for fishing vessels to be safely manned and for fishermen to have sufficient rest is not new in UK law. Compliance with hours of rest has been in force for workers on board fishing vessels since 2004 (See MSN 1786(F). https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/281967/msn1786.pdf)</p> <p>ILO 188 extends some parts of these Regulations to include self employed share fishermen. A new Merchant Shipping Notice replacing MSN 1786(F) explains the new requirements.</p> <p>In particular from SI 2004/1713 regulations 7,9,10,13 and 14 are extended:</p> <ul style="list-style-type: none"> • Reg 7: Adequate rest. This means at least 10 hours rest in a 24 hour period and 77 hours rest in any 7 day period • Reg 9: Reasonable rest breaks when working • Reg 10: Employers must keep records of the hours of work and rest to demonstrate compliance and retain such records for 2 years. • Reg 13: The Secretary of State (or the MCA on behalf of the Secretary of State) may grant exemptions to the hours of work and rest where appropriate. • Reg 14: A skipper may require fishermen to work outside the normal hours of rest requirements for the immediate purpose of ensuring the safety of the 	<p>We intend to continue to work with industry representatives to develop policy regarding safe manning documents in this area including a guidance notice.</p> <p><i>Do you agree with our proposals?</i></p> <p><i>What further Guidance would you find helpful in this area?</i></p>

		<p>ship or to give emergency assistance to other vessels.</p> <p>The Fishing Industry Code for Practices for Working Time has been revised and is included in the consultation package as part of</p> <p>MSN – FV Working Time.</p> <p>To be compliant with ILO 188 we are amending our regulations to specify that vessels are sufficiently and safely manned for safe navigation and operation. For vessels of over 24m this includes specifying the number and qualifications of the fishermen required and the issue of a safe manning document from the MCA.</p> <p>Skippers and Owners and Operators You are responsible for ensuring compliance with the regulations governing hours of rest as set out for fishermen on board your fishing vessels.</p> <p>Owners and Operators</p> <p>Mandatory Safe Manning Document vessels over 24m If you are the owner or operator of a fishing vessel of more than 24m in length you must apply to the MCA for a safe manning document which will specify the number and qualification of fishermen needed to safely operate your vessel. There will be a charge for this service.</p>	
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Crew List Article 15	Cons Regs Amending SI 1972/919 The Merchant Shipping (Crew Agreements, Lists of Crew and Discharge of Seamen) (Fishing Vessels) Regulations 1972	<p>Owners and operators and skippers</p> <p>If you are the owner operator or skipper of any fishing vessel. When ILO 188 comes into force in the UK you must ensure that a copy of your crew list is left ashore before your fishing vessel sails. You are responsible for leaving an up to date crew list ashore before every voyage.</p> <p>The MCA is working with SEAFISH and industry representatives to consider the best and most useful options for lodging a crew list ashore</p> <p>Considerations include a database developed by industry or SEAFISH, or an option to include in the online safety folder currently under development for the fishing industry. http://www.safetyfolder.co.uk/index.php</p>	<i>Do you have an opinion about the best place to leave a crew list ashore?</i>
Fishermen's Work Agreements. Article 16 -20	WIFC Regs	<p>This is a new requirement. All fishermen must have a Fishermen's Work Agreement (FWA) which meets the minimum standards set out in Articles 16-20 of ILO 188 unless they work single handed.</p> <p>Owners and Operators</p>	The consultation package includes draft examples of model FWAs for employed and non-employed fishermen.

		<p>If you are a fishing vessel owner or operator it is your responsibility to make sure that every fishermen on your vessel has a written FWA signed by them and you (or your authorised representative) Examples of ILO 188 compliant FWAs are included in this consultation package.</p> <p>All fishermen must have their own copy of the FWA and must have the opportunity to review it before signing. The work agreement must be compliant with the standards of ILO 188 and carried on board the vessel and made available to any authorised person on demand</p> <p>Skippers</p> <p>You should check that all fishermen onboard your vessel have an ILO 188 compliant work agreement which can be made available to an MCA surveyor or other competent authority on demand.</p> <p>Extension of Annual Leave entitlements (<u>Article 16b</u>)</p> <p>The FWA for employed fishermen must include the fisherman's annual leave entitlement. Under current UK regulations (the Fishing Vessels (Working Time: Sea-fishermen) Regulations 2004, and MSN 1786(F), employed fishermen are entitled to 4 weeks of annual paid leave. The draft regulations included in this consultation package make no change to that provision.</p> <p>However, the Regulations governing annual leave for workers ashore were amended in 2009 to ensure that all workers were entitled to leave in respect of public holidays. This provision (an additional 8 days of leave per year) was extended to seafarers in 2014 and is about to be extended to workers on inland waterways.</p>	<p><i>Do you agree that the paid leave entitlements for employed fishermen should be extended, in line with the entitlement of other workers in the UK, to 5.6 weeks per annum or pro-rata for periods of less than one year?</i></p>
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<p>Repatriation Article 21</p>	<p>WIFC Regs and Cons regs amending The Merchant Shipping (Repatriation) Regulations SI 1979/97</p>	<p>Fishing Vessel Owners</p> <p>If you are a fishing vessel owner it is your duty to repatriate fishermen working on your vessel if their contract ends (for whatever reason) when they are abroad, as soon as is reasonably practicable in accordance with Part 4 of the WIFC Regs.</p> <p>This is an existing requirement for employed fishermen, but under ILO 188 is extended to all fishermen.</p>	
<p>Recruitment and Placement Article 22</p>		<p>There are no changes to legislation. The MCA is considering developing further guidance to help fishing vessel owners understand their responsibilities. Fishing vessel owners should take particular account of the requirements of article 16-20 for a FWA when engaging fishermen in any capacity, even when recruiting crew through a manning agent.</p>	
<p>Payment. Articles 23 - 24</p>	<p>WIFC Regs and Cons regs modifying SI 1972/1698 Amendment of the Merchant</p>	<p>Minor changes to legislation to line up with ILO 188. The regulations provide for either payment of wages, or payment on the basis of a share of the catch.</p> <p>Owners, operators or employers</p>	

	Shipping (Seaman's Allotments) Regulations 1972 And SI 1972/1701 Amendment of the Merchant Shipping (Seamen's Wages and Accounts) (Fishing Vessels) Regulations 1972	You will need to ensure that the fisherman's FWA makes clear how they will be paid.	
Accommodation and Food. Article 25- 28	WIFC Regs and FV Codes of Practice for new vessels.	<p>Guidance for the changes implementing articles 25-28 of ILO 188 has been incorporated into the proposed changes to the fishing vessel codes included in this consultation package:</p> <ul style="list-style-type: none"> • Proposed Revision of Chapter 10 of the 15-24m Code • Proposed revision of Chapter 10 of 24m and over Code. <p>These changes are also detailed in regulatory impact assessment DfT000332 included in this consultation package.</p> <p><u>Crew accommodation:</u> All vessels will have to meet minimum standards including maintenance of crew accommodation, mitigation of excessive noise and vibration, and sanitation.</p>	<p><i>Have you any comments our approach to on the implementation of Articles 25-28 of ILO 188?</i></p> <p><i>Please consider the questions included in the impact assessment on possible costs arising from these requirements.</i></p>

		<p>Only new vessels built after the Regulations come into force will be required to comply with the specific standards laid out in Annex III.</p> <p><u>Food and catering:</u> There is existing published guidance relating Article 27 MGN 525 (M+F) Guidelines for the Provision of Food and Freshwater. https://www.gov.uk/government/publications/mgn-525mf-merchant-shipping-and-fishing-vessels-guidelines-for-the-provision-of-food-and-fresh-water This M notice will be reviewed post legislation.</p>	
Medical Care Articles 29-30	Merchant Shipping (Medical Stores) Regulations 1995	<p>These are not new provisions in UK Law. The current regulations and guidance meet the standards required by ILO 188 and are available on gov.uk MSN 1768 (M+F) MGN 225 (M+F)</p> <p>The Merchant Shipping Act 1995 section 45 requires the employer to meet the cost of medical care for fishermen on board the vessel or outside the UK.</p>	
Occupational Safety and Health and Accident Prevention Articles 31-33	Cons regs amending SI 1997/2962 The Merchant Shipping and Fishing Vessels (Health and	<p>All Fishermen These provisions are not new. The existing regulations have been amended to include ILO 188 compliant definitions and terms relating to fishing, to modify the definition of seafarers so that includes engagement on fishing vessels. These regulations now apply to all fishermen whether employed or self employed.</p>	

	Safety) at Work Regulations 1997	These are explained in the consultation package in MSN General H&S duties MSN PFDs	
Social Security Article 33-37	Existing UK Legislation	The existing UK legislation relating to Social Security implement article s 33-37 of ILO 188. There are no changes to law.	
Protection in the Case of Work-Related Sickness, Injury or Death Articles 38 and 39	WIFC Regs Part 4 Reg 20	<p>Fishing vessel Owners</p> <p>Many fishing vessel owners already have insurance for their vessels. When ILO 188 comes into force it becomes compulsory for all fishing vessel owners to have insurance for work related sickness injury and death respect of those working on their fishing vessels.</p> <p>The insurance should cover the costs of repatriation of fishermen as set out in part 4 of the proposed WIFC regulations.</p> <p>Your ship may not enter or leave a port in the UK unless you have this insurance. An MCA Surveyor or other authorised person will expect to see a certificate of insurance on board on request.</p> <p>Non UK Fishing vessels</p> <p>When ILO 188 comes into force a non UK fishing vessel may not enter or leave a port in the UK without insurance as described above. An MCA Surveyor or other authorised person will expect to see a certificate of insurance on board on request.</p>	<p>There is a provision to progressively implement this requirement. The MCA is considering whether this is necessary to allow time for the market to provide suitable product, and if so for which vessels, and for how long?</p> <p><i>If you are a fishing vessel owner do you already have insurance or another form of financial security to cover your liability for crew injury or death?</i></p> <p><i>Are you aware of suitable insurance products which are available?</i></p>

Compliance and Enforcement Article 40-43	WIFC Regs Reg 27 and S&C Regs	Fishing Vessel Owners and Skippers The proposed Merchant Shipping (Work in Fishing Convention) (Survey and Certification) Regulations 2017 set out the MCA's proposals for ensuring compliance with ILO 188 and what enforcement actions may be taken for non-compliance. It includes details of the proposed complaints procedure.	<i>What further guidance would you like to see about inspection and enforcement?</i>
Compliance and Enforcement Non UK Vessels in UK Ports Article 44	S&C Regs Reg 13	The proposed Merchant Shipping (Work in Fishing Convention) (Survey and Certification) Regulations 2017 set out procedures for inspection and detention of non UK fishing vessels calling in UK ports. Where ILO 188 is in force for the State whose flag the vessel is entitled to fly a relevant UK inspector will inspect the ship against the vessel's Work in Fishing Convention Certificate. If ILO 188 is not in force for the flag state the inspector may inspect against the UK standards implementing the Convention.	