

Title: ILO Work in Fishing Convention (C188) IA No: DfT00332 Lead department or agency: Maritime and Coastguard Agency (Department for Transport) Other departments or agencies: Department for Transport (DfT)	Impact Assessment (IA)		
	Date: 14/07/2015		
	Stage: Consultation		
	Source of intervention: International		
	Type of measure: Secondary legislation		
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Summary: Intervention and Options	RPC Opinion: AMBER
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Cost of Preferred (or more likely) Option			
Total Net Present Value	Business Net Present Value	Net cost to business per year (EANCB on 2014 prices)	In scope of One-In, Three-Out? Measure qualifies as
-£12.75m	-£11.01m	£1.01m	No NA

What is the problem under consideration? Why is government intervention necessary?

Standards of living and working conditions in commercial fishing are inconsistent across the shipping industry. Employment conditions for fishers vary globally, with some seafarers working under unacceptable conditions and vessel operators that operate substandard vessels gaining a competitive advantage. Effective international standards are therefore needed to address this. The Work in Fishing Convention 2007 (C188) aims to provide minimum living and working conditions for fishers that are globally applicable and uniformly enforced, for non-employed fishers. In due course, prospective fish purchasers are expected to require fishing vessels to be flagged with ratifying states before doing business with them.

What are the policy objectives and the intended effects?

Promoting decent living and working conditions onboard fishing vessels, tackling the lack of legal protection for the non-employed (Share) fishermen who are not fully covered by existing UK legislation, and promoting an international level playing field for the UK fishing industry; by: a) bringing existing UK legislation into line with the Convention standards; b) meeting UK international obligations by ratifying the Convention; c) enabling the UK to enforce these new standards for crew accommodation on non-UK registered fishing vessels when in UK ports; and d) avoiding damage to the profitability of UK fishing vessels expected to result if the UK does not ratify the Convention

What policy options have been considered, including any alternatives to regulation? Please justify preferred option (further details in Evidence Base)

The Government's social partners including industry and union representatives all support prompt ratification of the Convention. The preferred policy option is to introduce the proposed Regulations (Policy Option 1), to make the necessary changes to existing legislation to implement the Convention as agreed with social partners. No further measures have been deemed to be necessary, and only one Policy Option has been monetised in this impact assessment.

Doing nothing is not considered to be an appropriate course of action, as new legislation is required to enable the UK to ratify. Also, there is a European Social Partners' Agreement (SPA) on the Convention, and an expectation from social partners that the UK will abide by this. The SPA is enshrined in an EU Directive that will make it mandatory to implement, depending on the UK's future EU relationship; the penalty for non-implementation is EU infraction.

Will the policy be reviewed? It will be reviewed. **If applicable, set review date:** 11/2021

Does implementation go beyond minimum EU requirements?			No		
Are any of these organisations in scope? If Micros not exempted set out reason in Evidence Base.	Micro Yes	< 20 Yes	Small Yes	Medium Yes	Large Yes
What is the CO ₂ equivalent change in greenhouse gas emissions? (Million tonnes CO ₂ equivalent)			Traded: N/A		Non-traded: N/A

I have read the Impact Assessment and I am satisfied that, given the available evidence, it represents a reasonable view of the likely costs, benefits and impact of the leading options.

Signed by the responsible SELECT SIGNATORY: _____ Date: _____

Summary: Analysis & Evidence

Policy Option 1

Description:

FULL ECONOMIC ASSESSMENT

Price Base Year 2014	PV Base Year 2014	Time Period Years 10	Net Benefit (Present Value (PV)) (£m)		
			Low: -8.11	High: -6.32	Best Estimate: -11.60

COSTS (£m)	Total Transition (Constant Price) Years	Average Annual (excl. Transition) (Constant Price)	Total Cost (Present Value)
Low	4.0	0.3	6.3
High	4.7	0.4	8.1
Best Estimate	4.4	0.9	11.6

Description and scale of key monetised costs by 'main affected groups'

The key monetised costs are the costs to fishers to complete medical examinations, the costs to government required to deal with new medical examination regulations and the set-up costs for inspection to ensure new measures are followed. This includes the cost to fishers to obtain medical certificates, the staff costs to government to implement and monitor this system and the costs of surveyors inspecting fishing vessels.

Other key non-monetised costs by 'main affected groups'

There are other areas where some cost may be incurred. These include Fishers' Work Agreements, costs of repatriation, changes to accommodation, changes to food, familiarisation reading time, water requirements and changes to medical care requirements. These costs are thought to be insignificant, small or difficult to measure for reasons laid out in the evidence base. There may also be travel costs associated with gaining certain medical certifications.

BENEFITS (£m)	Total Transition (Constant Price) Years	Average Annual (excl. Transition) (Constant Price)	Total Benefit (Present Value)
Low	Optional	Optional	Optional
High	Optional	Optional	Optional
Best Estimate	N/Q	N/Q	N/Q

Description and scale of key monetised benefits by 'main affected groups'

Other key non-monetised benefits by 'main affected groups'

These regulations will improve living and working conditions for fishers onboard fishing vessels. They will also serve to maintain the competitiveness of the UK's commercial fishing fleet by enabling UK ships to do business with most or all buyers, and, for those vessels which visit foreign ports, eliminating in-depth inspections by (foreign) port States unless they are manifestly non-compliant. The potential cost of EU infractions will also be avoided.

Key assumptions/sensitivities/risks

A number of assumptions were made in estimating which certificates were necessary for different shipping vessels. In this case different scenarios were used to mitigate the risk of over or under-estimating the costs of the certificates. Some assumptions were made in determining where accommodation costs would be small or insignificant; in these cases questions to consultees have been asked to confirm.

Discount rate

3.5

BUSINESS ASSESSMENT (Option 1)

Direct impact on business (Equivalent Annual) £m:			In scope of OITO?	Measure qualifies as
Costs: 0.9	Benefits: 0	Net: -0.9	No	NA

Evidence Base (for summary sheets)

1. Problem under consideration

Background

The International Labour Organization (ILO) was founded in 1919, is based in Geneva, and became the first specialised Agency of the United Nations in 1946. It aims to promote rights at work, encourage decent employment opportunities, enhance social protection and strengthen dialogue on work-related issues.

On the 14th of June 2007, at the 96th Session of the International Labour Conference, the ILO passed Work in Fishing Convention 2007 (Convention 188, or C188) at its annual conference, with a vote of 437 member states, including the UK, in favour, 2 against and 22 abstentions. This was the culmination of a great deal of work - much research and reflection had taken place, and the matter was debated several times at ILO annual conferences, over a period of about six years. During the 2007 conference, a complementary, non-mandatory Recommendation (Recommendation 199) was also passed, which provided guidance to member states on how to implement the Convention. Several non-binding Resolutions were also adopted at that time. The Convention and Recommendation also replace other ILO instruments from 1920, 1959 and 1966. The UK was one of the major players in the development of the Convention.

Lithuania was the tenth country to ratify the Convention on 16 November 2016. The Convention will enter into force internationally 12 months after that date, on 16 November 2017.

The Problem

Standards of living and working conditions in commercial fishing are inconsistent across the shipping industry. Employment conditions for fishers vary globally, with some working under unacceptable conditions and vessel operators which operate substandard vessels gaining a competitive advantage. Effective international standards are therefore needed to address this.

The Convention aims to provide minimum living and working conditions for fishers that are globally applicable and uniformly enforced, with the intended outcome being the promotion of decent working conditions for fishers and fairer competition for fishing vessel owners. Many of the protections currently afforded to employed fishers are not applicable to non-employed ones, such as share-fishers, who make up the greatest part of the UK fisher population.

Data on whether fishers are employed on contracts of employment, or engaged as share (non-employed) fishers, is not normally collected. However, in 2013 Marine Scotland Science carried out a survey on behalf of Marine Scotland (a part of the Scottish Government which manages Scotland's seas for prosperity and environmental sustainability) which provides some data for Scotland only in this regard.

Quote from ILO publication

“ fishers are often paid on the basis of a share of the value of fish caught by the vessel, rather than receiving a fixed wage. Fishers may not be employees in the conventional sense, for a great number are owner-operators or considered to be self-employed. All this means that the sorts of procedures and safeguards which may be in place for workers working in shore-based occupations and industries may not be appropriate or effective, thus contributing to a “decent work deficit” for fishers.” *Quote from ILO’s “Work in Fishing Convention No.188, Recommendation No.199 - Decent Working Conditions, Safety and Social Protection” publication 978-92-2-120869-3 of December 2007*

The Convention sets standards for the living and working conditions of those who work on fishing vessels and covers minimum age; medical examination; manning and hours of work and rest; work agreements and payment; repatriation; crew accommodation; medical care, and social security, as well as including compliance and enforcement provisions. The majority of the provisions are the subject of merchant shipping legislation, and as such come within the remit of the Department for Transport/ Maritime and Coastguard Agency. However, other Departments with an interest include the Department of Work and Pensions - who have the overall lead on ILO matters as well as being the lead in relation to the social security provisions of the Convention – Defra, BIS and the Department of Health.

Although many of the Convention standards are already contained in UK legislation, ratification requires a package of new legislation in the UK to ensure that domestic legislation fully meets the full range of Convention standards.

International legislative drivers

Given the international nature of the commercial fishing industry, it is considered that effective international standards are needed to address the issues and risks that have been identified in the “Problem under consideration” section above. This is why the Work in Fishing Convention has been developed in the ILO by government, fishing vessel owner and fisher representatives as a global instrument to address these issues and risks.

Because business representatives were involved with the drafting of the Convention, businesses in member states should have confidence that if any additional burdens are imposed on them they are reasonable and acceptable. This is the rationale behind the structure of the ILO that things are taken forward on a tripartite basis (governments, industry representatives and worker representatives). However, the actual transposition/ implementation of the Convention within ILO member states is also carried out on a tripartite basis – which is what is happening in the UK. So representatives of UK businesses – who may or may not have been involved in the drafting of the Convention and the Social Partners’ Agreement - have a chance to comment at this stage. As well as tripartite implementation, there will of course also be public consultation which is required when any new legislation is introduced in the UK.

The Work in Fishing Convention also builds upon a number of earlier international Conventions on commercial fishing.

European legislative drivers

On 23 June, the EU referendum took place and the people of the United Kingdom voted to leave the European Union. Until exit negotiations are concluded, the UK remains a full member of the European Union and all the rights and obligations of EU membership remain in force. During this period the Government will continue to negotiate, implement and apply EU legislation. The outcome of these negotiations will determine what arrangements apply in relation to EU legislation in future once the UK has left the EU.

At the International Labour Conference (ILO) which took place on 14 June 2007, in which the Work in Fishing Convention, 2007 was adopted, all European Union (EU) member states voted in favour of adoption. European Council Decision 2010/321/EU of the 7 June 2010 authorised EU member states to ratify the Convention “in the interests of the Union”. It exhorted them to do so as soon as possible, preferably before 31 December 2012. Although this first deadline has now passed, political pressure remains on member states, particularly those with coastline, to ratify as soon as possible. The EU cannot ratify the Convention in its own right, although the provisions of

the Convention, about co-ordination of social security schemes fall under exclusive EU competence.

European Social Partners' Agreement and agreement for an EU Directive

The European (sea-fisheries sector) Social Partners comprise the General Confederation of Agricultural Co-operatives in the European Union, the European Transport Workers' Federation (ETF) and Association of National Organisation of Fishing Enterprises in the European Union (Europêche). They have made a Social Partners Agreement (SPA) concerning the implementation of the work in Fishing Convention 2007 . This agreement was concluded in May 2013.

The main purpose of the SPA is to;

- encourage all Member States to sign the Convention to provide a level playing field within Europe;
- To implement in Europe all parts of the Convention that fall within EU Competency;
- To ensure that where there are existing higher European Standards to those set out in the Convention that these are not repealed;
- To move towards a harmonised approach to port State control and certification of fishing vessels covered by the Convention to be implemented through the European Union based on the existing PSC-F Guidelines.

The social partners remit extends only to the relationship between employers and employees and they have no power to negotiate on behalf of those fishers who don't count as employees i.e. share fishers. In the SPA they can only make agreement about the parts of the Convention that apply to employed fishers except in as far as to suggest regulation of non-employed fishers on the grounds that they affect the health and safety of employed fishers by virtue of working alongside them on the same vessel.

It is usual practice, when requested by Social Partners, for the European Commission to propose a Directive Annexing a SPA on a particular subject matter, which has the effect of making it mandatory in member states. In September 2017 the European Commission gained political agreement for a Directive implementing the SPA at the Employment, Social Policy, Health and Consumer Affairs council (EPSCO) Committee meeting. This Directive (Council Directive (EU) 2017/159 of 19 December 2016) will come into force in November 2019 two years after the Convention itself.

Domestic drivers

A Command White Paper Cm 7375, informing Parliament of the Government's broad intentions with regard to the Convention Concerning Work in Fishing was presented on 20 May 2008, which did not encounter opposition from any political party. This gave initial impetus by broaching possible UK ratification.

Commercial fishing is a dangerous occupation when compared to most others. While health and safety legislation applicable to UK registered fishing vessels has existed for many years, most fishers on UK vessels other than owner/operators are share fishers, who are not employees. Much of the health and safety legislation is applicable only to employed persons and therefore does not catch share fishers. This Convention is applicable to all fishers and therefore has the potential to strengthen existing safety legislation, and protection relating to terms and conditions of work, by application to non-employed fishers as well and employed ones.

Industry and unions, as well as welfare organisations, are pressing for UK ratification of the Convention, and some UK industry and union representatives were involved with developing the European Social Partners' Agreement (SPA). UK Social Partners also pressed the European Commission to implement the formal request made by the European Social Partners under paragraph 2 of Article 155 of the Treaty of the Functioning of the European Union (TFEU) promptly through EU legislation. This follows normal process of incorporation of SPAs into law.

There has also been an increase over recent years of migrant workers coming to the UK to work in fishing. This is an area where a lot of issues have arisen concerning safety and protection in relation to working terms and conditions. Many of these migrant workers reside on the vessels, many of which were not designed as permanent homes or as accommodation when the vessel was moored.

Commercial drivers

Responsible Fishing Schemes (RFS)

Over the last few years there has been growing consumer interest in sustainable sourcing of fish. This has expanded to include ethical issues, and these factors are likely to increasingly drive the market share over the coming years. This originates to some extent from within the industry itself, but also from the public, members of the supply chain and pressure groups. Consumers will have noticed that many supermarket fish products are marked "Responsibly sourced fish", demonstrating a growing consciousness in the fishing industry, in supermarket management and the public of the importance of ethical issues when it comes to fishing. Membership of these schemes is likely to be especially important to buyers/ processed fish producers/ retailers in the wake of the horsemeat scandal, in which many companies received adverse publicity because of the origins from which they sourced their meat, and the checks, or lack of checks, they carried out on their supply chains. Criteria for joining such schemes may include the fact that the fishing vessels in question are flagged with a state which has ratified the ILO Work in Fishing Convention, to ensure good practice in employment/ engagement of fishers, in addition to other things like environmental considerations and good practice relating to care of the catch, the latter of which helps to preserve the freshness of the product at the point of sale.

The above assertion is evidenced strongly by the following quotation, and the quotations provided later in this section which summarise the strong and clear anecdotal evidence provided in initial consultations:

Seafish Responsible Fishing Scheme - RFS Document 1 – Crewed Vessel RFS Standard Clauses Document which states on page 13:

“The specific performance indicators in this module of the standard will be based on internationally recognized universal standards, including:

.....

.....

ILO Work in Fishing Convention (ILO 188)

.....”

[http://www.seafish.org/media/1395698/4th_march_approved_rfs_crewed_vessel_standard_final_2 .pdf](http://www.seafish.org/media/1395698/4th_march_approved_rfs_crewed_vessel_standard_final_2.pdf)

Failure of the UK to ratify the Work in Fishing Convention in a timely manner is therefore likely to have an adverse effect on the profitability of UK fishing vessels, as there is doubt as to whether big name brands will continue to source their fish from them. This limitation on “responsible” supply of fish may also drive up costs for those that choose to source their fish from “responsible” sources abroad, instead of from “non-responsible” UK sources. In addition to this undesirable impact on industry, it is possible that this could also have a detrimental knock-on effect on the quantity and range of fish available for sale and consumption in the UK, thus reducing consumer choice. The financial effects of these factors are not quantifiable because it is not possible to estimate how many responsible fishing schemes will come into play or how much effect they will have in reality.

Without UK legislation being suitably adjusted, it will not be possible for the UK to ratify the Convention, or comply with EU Directive 2017/159. Without the UK’s ratification of the Convention, it will not be possible for the MCA to issue internationally recognised certification to UK fishing vessels evidencing compliance with the Convention. It will also not be possible for Crown Dependencies and Overseas Territories to become “ratifying” states as it will not be possible for the UK to extend ratification to them if the UK itself has not ratified. (Crown Dependencies and Overseas Territories cannot ratify international Conventions in their own right as they are not sovereign states.)

Seafish Responsible Fishing Scheme

One such scheme is the UK Seafish Industry Authority, or “Seafish”, Responsible Fishing Scheme (RFS), due to be launched during 2015. The Seafish RFS will encourage fish buyers to purchase their supplies from vessels and fishing companies which can demonstrate they fish responsibly. According to the Seafish RFS website, <http://rfs.seafish.org/>, “*The aim is that, over time, accreditation will become a condition of supply.*” Food Certification International (FCI) has been accredited to award certification under the scheme, which aims to achieve full ISO 17065 (Requirements for bodies certifying products, processes and services) accreditation for the first time. FCI will be working with the United Kingdom Accreditation Service (UKAS) towards this goal.

Health and safety and welfare are key elements of certification to the Seafish RFS. The scheme will also address the issues of trafficking and modern slavery, which is in keeping with the government’s draft legislation progressing through parliament which, Guardian reported on 13 October 2014 (<http://www.theguardian.com/world/2014/oct/13/uk-firms-new-rules-ending-slavery-supply-chains>) is expected to place requirements on many businesses to demonstrate their supply chains are slavery free. The Modern Slavery Bill passed its third reading in the Commons on 4 November 2014. A new clause 11, relating to transparency in supply chains, was debated. It contains an obligation of businesses over a certain size to disclose what measures they have taken to ensure their supply chains are free from slavery and human trafficking. Compliance with the Convention is likely to be a useful tool for companies needing to provide evidence in this respect.

Quote by Tom Picknell, Technical Director, Seafish, in a blog on their website on 17 October 2014 (<http://www.seafish.org/about-seafish/blog/2014/how-the-uk-seafood-industry-is-tackling-slavery-in-supply-chains>)

“We have had discussions with all the major retailers and food service providers in the UK, and they have told us that there is a need for a certification standard that demonstrates vessels are responsible with their catch and with their crew.”

Although in the above blog Mr Picknell also said that incidences of slavery were thankfully rare, agriculture and aquaculture are industries that have traditionally been prone to exploitation of casual labour in various ways. Workers concerned are frequently not employees of a company in

the supply chain but are organised under independent Agencies known as “Gangmasters”, which companies in the sector engage and which can be of varying reputational status. The supply chain company therefore has no direct control over such casual labour.

The Global Aquaculture Alliance (GAA) posted on their website an article dated October 2014 in which they announced they had agreed a position statement with the International Fishmeal and Fish Oil Organisation (IFFO), Lyons and Morrisons Supermarkets to address social responsibility:

Positioning Statement GAA, IFFO, Lyons and Morrisons Supermarkets

(<http://www.gaalliance.org/newsroom/news.php?GAA-Partners-with-IFFO-Lyons-Morrisons-to-Address-Social-Responsibility-176>)

“It is essential that robust, comprehensive and socially responsible standards are implemented within aquaculture and its supply industries and that human rights are protected. To achieve this, the parties below are committed to using their influence within aquaculture supply chains to promote the spread of good labour practices by supporting and promoting Fishery Improvement Projects that incorporate social standards based on the key elements of the ILO Work in Fishing Convention (ILO 188) (with a priority being the prevention of trafficked or bonded labour) and those programs based on these, including fishing vessel standards such as Seafish’s Responsible Fishing Scheme.”

The specific reference to the ILO’s Work in Fishing Convention, C188, in the joint statement demonstrates the importance attached to it by UK companies and bodies in the industry, and indicates the extent to which the business of fishing vessels which are not certificated to this standard may be damaged. It is highly likely that more UK companies and organisations will follow in their insistence that those involved in catching fish are members of a Responsible Fishing Scheme and are certificated to the Convention.

Seafish also have an Ethics Working Group designed to bring together all parties in the seafood supply chain to provide collective response to growing concerns regarding unethical practices within the global seafood market. This Group is international, and comprises retailers, foodservice, processors, environmental non-governmental organisations, development organisations and charities and the catching sector (Source: <http://www.seafish.org/responsible-sourcing/discussion-forums/the-ethics-working-group>)

Potential impact of lack of certification for UK commercial fishing vessels visiting foreign ports

Article 44 of the Convention (paraphrased) states that fishing vessels flying the flag of a state that has not ratified the Convention should not receive more favourable treatment than those flying the flag of a ratifying state. This is known colloquially as the “no more favourable treatment” rule. Once they have established they meet the necessary standards, ratifying countries are able to issue their fishing vessels with Convention certificates, which act as prima facie evidence of compliance. If the UK does not ratify the Convention it will not be able to issue these certificates.

While not all UK commercial fishing vessels visit foreign ports, the ones that do could be subject to delay if they do not hold such a certificate, as the port state (i.e., the country in which the port the vessel is visiting is situated) is expected to do a more in depth inspection, which has the potential to delay the vessel, with the attendant cost implications. Serious deficiencies against Convention standards could even result in detention. It has not been possible to quantify the costs identified in this paragraph, because they will depend on the level of compliance of the individual vessel, the time needed to rectify any urgent deficiencies and the rigorousness of the port State concerned. UK ratification would enable the Secretary of State, via the MCA, to issue Convention certificates to compliant fishing vessels to minimise such delays and also empowers the UK to inspect foreign fishing vessels visiting UK ports against Convention Standards.

Safety and Health drivers

Although safety is not the only focus of the Work in Fishing Convention, it nevertheless has potential to improve safety. This is not least because the vast majority of fishers in the UK are share fishers, rather than employees, so they are not strictly bound by the existing regulation on health and safety, hours of work and rest (although guidance exists in the form of a voluntary code).

The need for fishers to undergo medical examinations also has the potential to enhance safety. The purpose of the medical examination will be similar to that of the merchant seafarers' medical examination – namely to assess the fitness of the individual to perform the duties they are performing (in the context in which they are performing them, namely onboard a vessel). If the fisher has a medical condition which could reduce their chances of survival in an emergency situation, could cause them to need urgent medical attention while at sea or could be exacerbated by routine tasks performed onboard as part of the job, a medical examination can identify these and arrangements can be made for mitigation to be put in place or, if necessary, the fisher can be limited to certain areas of operation or prevented from taking the risk of going to sea altogether. In reducing the frequency of emergency situations, this can not only reduce the risk to the fisher of death or serious deterioration of a medical condition, but also reduce the risk that others will have to risk their lives to rescue the fisher. Additionally, this can potentially be a cost saving to emergency services funded publically and by the voluntary sector from reduced incidences of emergency all-outs.

Minimum standards for crew accommodation maximise the well-being of fishers by promoting sleeping accommodation, sanitary and, where practicable, recreational facilities, which are clean and comfortable. Although not quantifiable, benefits associated with such standards include a reduction in fatigue, which means that fishers are more alert to potentially dangerous situations which are a daily feature of life onboard a commercial fishing vessel. Health and safety standards are also a key element of the Seafish Responsible Fishing Scheme described separately in this Impact Assessment.



Risk assessing possible hazards - a cluttered store onboard a fishing vessel

2. Rationale for intervention

Market Failures

There are a number of market failures that justify government intervention in this case. Some owners of fishing vessels may have significant monopsony power which allows them to have poor conditions on board vessels without having the risk of workers leaving to go work on other vessels. There may also be information asymmetry whereby workers may not fully know the conditions on board a vessel before committing to a voyage.

The market will be unable to make these changes to standards on ships because of co-ordination failure. Any move for fishing vessels to improve living standards on vessels would improve the reputation of UK vessels. Free riders would be able to take advantage of these reputational advantages without making the changes themselves in the absence of government enforcement. This would put vessels that have made these changes at a commercial disadvantage thereby disincentivising change in the first place.

Government intervention would enforce these regulations preventing free riders through enforcement and inspection. With government enforcement there would be no competitive disadvantage for those enacting the reforms and any information asymmetry or monopsony power would be mitigated.

3. Policy objectives

The purpose of the proposed legislation is to bring existing UK legislation into line with the requirements of the Convention, in fulfilment of the UK's obligations as a ratifying country, in order to:

- secure decent working and living conditions for all fishers on UK registered fishing vessels, including fishing vessels owner's obligation to meet the Convention standards in relation to minimum age; medical examination; manning and hours of work and rest; work agreements and payment; repatriation; crew accommodation; medical care and social security;
- promote a more level competitive playing field for fishing vessels (ie., one operator not gaining competitive advantage over another by failing to comply with standards) by enforcing these standards on non-UK registered fishing vessels, on occasion that they call at UK ports;
- enable the MCA to issue Convention certification to UK registered fishing vessels, removing the potential for UK flagged fishing vessels to experience delays on occasion of them visiting foreign ports in countries that have ratified the Convention, and incurring the attendant costs involved in that;
- allow UK registered commercial fishing vessels to continue to benefit from market forces driven by ethical considerations; and
- prepare the UK to comply with the UK's European legislative obligations in relation to the provisions in the Convention covered by the EU Directive, thus avoiding the risk of infraction proceedings being taken against the UK;
- address fishers' protection issues in the areas of, for instance, safety, health, contractual arrangements, medical care, working hours and compensation for injury.

In particular, the proposed legislation would:

- introduce new spatial minima for fishing vessel crew accommodation on new build commercial fishing vessels, and commercial fishing vessels on which the crew accommodation is significantly modified;

- introduce a medical certification scheme for seafarers;
- introduce Fishers' Work Agreements (FWA) for both employed and non-employed fishers;
- extend many fishing vessel owner obligations (many of them relating to health and safety) which currently only apply to employed fishers, to "share" fishers, who earn their living through a share of the catch.

For example, there are currently no maximum hours of work for seagoing fishers who are not employees. The Maritime and Coastguard Agency (MCA), in conjunction with other parties, has been doing much work recently relating to seafarer fatigue, examining existing working patterns and statutory hours of work laid down in the Fishing Vessels (Working Time: Sea-fishers) Regulations 2004. But these do not apply to non-employed share fishers.

4. Description of options considered

Do nothing

Existing UK legislation is not in compliance with the Work in Fishing Convention in respect of a number of areas. A 'Do nothing' Option would not achieve the policy objectives that are outlined above, in particular it would not address the lack of protection for share-fishers. This IA measures the impact of the convention in the UK, not UK compliance with the convention. The UK government's social partners, the fishing industry and the fishers' organisations support ratification of the Convention.

The market would not be able to achieve these reforms without this convention and government enforcement because of the co-ordination and free rider effects identified in the Rationale for Intervention section of the IA.

Under this option the UK fishing industry could still abide by the SPA the social partners have committed to and which is now enshrined in EC Directive 2017/159 which will come into force in November 2019. However, taking this route would not achieve all the policy objectives

- a) it does not enable the UK to issue internationally accepted certification to SPA compliant UK registered fishing vessels to minimise the risk of delays during Convention inspections in foreign ports;
- b) it does not enable the UK to inspect foreign flagged fishing vessels in UK ports under the Convention in order to enforce decent standards on all fishing vessels operating around the UK;
- c) it does not allow UK registered commercial fishing vessels to be able to attest to the fact that they are registered in a ratifying country, and are therefore not barred from membership of responsible fishing schemes and fulfilling other criteria which potential purchasers of their catches are expected to insist upon before doing business with them;
- d) it does not fully address the issue of protection for share fishers who would not be covered by the SPA unless they work alongside an employed fisher.
- e) In writing the SPA the European Social partners included that they thought it highly important to encourage Member States to ratify the Convention. Therefore if the convention is not ratified the main intention of the SPA has not been met.

Furthermore it is likely to result in a loss of reputation for the UK in the international maritime community due to non-ratification of the Convention, and result in the UK fishing industry incurring most or all of the costs involved with the Convention, without being able to realise the benefits, as demonstrated in (a) to (e) above.

The whole UK approach to the SPA is being discussed together with the Convention itself in the tripartite Group comprising representatives of the fishing industry and fishers.

The 'Do Nothing' Option has therefore not been considered further in the Impact Assessment but rather treated as the baseline, against which the costs and benefits of policy options can be compared. However, it should be recognised that the situation if the UK does nothing after the Convention comes into force internationally will be different from doing nothing in the current, pre-Convention climate.

Option 1: Introduce the proposed legislation to implement only the minimum mandatory requirements of the Work in Fishing Convention (2007) and European Social Partners' Agreement.

The full text of the Convention can be found at:

http://www.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:12100:0::NO::P12100_INSTRUMENT_ID:312333

This Option fulfils the stated objectives in that:

- a) it addresses the lack of protection for share fishers;
- b) it enables the UK to inspect foreign flagged fishing vessels in UK ports in order to enforce decent standards on all fishing vessels operating around the UK, promoting the global level playing field so that UK businesses are not disadvantaged;
- c) it allows UK registered commercial fishing vessels to be able to attest to the fact that they are certificated to the Convention and registered in a ratifying country, so they are not barred from membership of responsible fishing schemes, such as the Seafish scheme. It also fulfils other criteria, such as evidencing the absence of slavery and trafficking in the supply chain, which potential purchasers of their catches are expected to insist upon before doing business with them;
- d) it transposes the EU Directive enshrining the SPA, thus minimising the risk of infraction.

5. Costs and benefits of the proposed legislation to transpose only the minimum mandatory standards of the Convention and SPA

Option 1

Numbers of Fishing Vessels

What is a commercial fishing vessel?

A commercial fishing vessel is one which catches fish and sells that fish ashore for profit. They can range from small vessels of less than 15 metres in length (a great deal smaller in some countries) to much larger vessels of over 24 metres and even over 45 metres in length. The term does NOT include vessels which are operated commercially to take fare-paying anglers out fishing for pleasure, and where they keep their catch.

Commercial fishing vessels which are registered in UK ports and fly a non-defaced Red Ensign (ie., they are registered in the UK itself, as opposed to other Red Ensign Group Registers in Crown Dependencies and Overseas Territories) are Registered on Part II (part two) of the UK

Table 1. Numbers of UK registered (by flag) commercial fishing vessels as at 11 December 2014

Length of vessel	Number of vessels
Vessels of over 24 metres	153 (of which 29 are also >45m)
Vessels of 15 metres and over but less than 24 metres	496
Vessels of less than 15 metres	5068

Source: MCA Registry of Shipping and Seamen

Different types of Fishing Vessel Registration

Vessel Registration, including fishing vessels, is a matter for the Maritime and Coastguard Agency (MCA) which deals with maritime safety, as matter reserved under the Westminster parliament. The registration is linked to a particular port, and UK vessels will always be registered in a port within the UK. Under normal circumstances, all fishing vessels are expected to be registered on the UK flag.

The allocation and registration of the UK's fishing vessel catch quotas is a matter which is devolved, and is dealt with in England and Wales by the Department for Food, Agriculture and Rural Affairs (Defra) and by devolved administrations in Scotland and Northern Ireland. Data is therefore generally broken down into groups of vessels registered in ports in England/Wales, Scotland and Northern Ireland.

Number of Fishers

The number of fishers on UK registered (flagged) commercial fishing vessels was approximately 12,000 in 2014. ¹This is approximately a 12% decrease over the last decade from about 13,000 in 2003.

Of these, it is estimated by the MCA that no more than 5% are actually employed persons, and that the greatest incidence of employed fishers occurs in Scotland, where the supply of fishers does not meet demand and some migrant labour is invited from abroad.

Comparison with “do nothing” scenario

The 'Do Nothing' scenario represents what would happen if the Convention had not been enacted. In other words it is the counterfactual, or baseline, against which the costs and benefits of policy options can be compared. In the do nothing scenario the new safety and living standard improvements are not made and vessels maintain a business as usual approach compliant under UK law. Vessels will not try to implement these reforms without the Convention as they would be at a competitive disadvantage without some government enforcement as identified in the Rationale for Intervention section.

¹ <https://www.gov.uk/government/statistical-data-sets/uk-sea-fisheries-annual-statistics-report-2014>

The “Do Nothing” scenario could also be non-compliant with EU law as the Social Partners’ Agreement is now enshrined in EC Directive 2017/159, which will come into force in November 2019.

As we are measuring the impact of the Convention itself rather than the UK’s decision to comply, this Impact Assessment assesses the additional costs to business of complying with the minimum mandatory requirements of the Convention relative to the requirements of existing UK legislation or existing industry practice as applicable.

This Impact Assessment will be an over estimate of the costs of ratifying the Convention as this is not the objective of the IA. However, it is worth noting that being a Convention with worldwide application, and given that any UK fishing vessels visiting ports in ratifying countries (which are expected to be most coastal states with fishing industries within the foreseeable future) will have to be compliant, its effects will be virtually impossible to escape for UK fishing vessels wishing to trade internationally. Therefore, MCA expects that, for UK fishing vessels which visit foreign ports, a proportion of the additional costs of complying with the minimum mandatory requirements of the Convention would have been incurred anyway if the UK does not ratify.

Changes due to the proposed legislation (Option 1)

The main changes expected to be brought about by the implementation of the Convention in UK law are identified below. It is useful to bear in mind that a large number of the Convention standards are already in UK law.

Medical certification

Mandatory Medical Certification for all fishers. Apart from eyesight standards for Deck Officers, this is new to the fishing industry.

Manning and Hours of Rest

The Convention extends the hours of work and rest provisions which are currently only applicable to employed fishers, also to non-employed fishers.

Fishers’ Work Agreements

Fishers working on commercial fishing vessels will be required to be provided with Fisher’s Work Agreements (FWA) regardless of their employment status. This is a new requirement, although, for the small number of fishers who are employees, it will replace the requirement to have a crew agreement.

Although contractual documentation is already required to comply with applicable legislation, and crew agreements are checked, the current emphasis tends to be on the hardware and safety aspects of a fishing vessel. The Convention will provide an additional opportunity to scrutinise contractual arrangements for employed and non-employed fishers. While there is some existing documentation which is of a high standard, some is unorthodox and inappropriate provisions do creep in.

Repatriation

The Convention extends the vessel owner’s Repatriation to non-employed fishers as well as employed ones. Repatriation occurs when a fisher remains abroad for medical or other reasons, including if the individual or vessel is abandoned in a foreign country.

Recruitment and Placement

No additional obligations are imposed by the Convention in this subject area.

Accommodation

Information on what is normal or best practice has been provided by industry, fishers and MCA fishing vessel surveyors.

Apart from some very basic requirements in Article 26 of the Convention (in particular, sanitary facilities and complaints) the new crew accommodation requirements apply only to new vessels (built after the Convention comes into force) and existing vessels on which the crew accommodation is significantly modified after the Convention comes into force.

In the context of this Convention, a “new fishing vessel” means a vessel for which:

- a) the building or major conversion contract has been placed on or after the date of the entry into force of the Convention for the Member concerned; or
- b) the building or major conversion contract has been placed before the date of the entry into force of the Convention for the Member concerned, and which is delivered three years or more after that date; or
- c) in the absence of a building contract, on or after the date of the entry into force of the Convention for the Member concerned:
 - i) the keel is laid, or
 - ii) construction identifiable with a specific vessel begins, or
 - iii) assembly has commenced comprising at least 50 tonnes or 1 per cent of the estimated mass of all structural material, whichever is less;

and an “existing vessel” means a vessel that is not a new fishing vessel.

Most of the crew accommodation provisions are the same or very similar to those already in UK law. However, there are a few relatively marginal differences.

Notable are the following.

- “Klondyking”. (Convention, Annex III paragraph 6) Where fishers are working on a “feeder” vessel which does not have the appropriate accommodation and sanitary facilities, they must be provided with those facilities on the mother vessel. (The practice of using a feeder vessel and a mother ship is known as “Klondyking”.)
- Headroom. (Convention, Annex III paragraph 14) An increase in minimum headroom from 1.9 to 2.0 metres. The minimum in existing UK law is 1.9m. While the Convention allows competent authorities in member states to permit 1.9 metres instead of 2.0 metres, the Social Partners’ Agreement does not. According to the Explanatory Notes to the SPA this is because the flexibility was allowed when the Convention was first drafted for non-EU states which had difficulty complying due to the normal design of their vessels and physical dimensions of their populations. UK Social Partners have indicated that an increase to 2.0 metres would not pose a problem.

- Screen doors. (Convention, Annex III paragraph 19) There is an obligation in the Convention to fit screen doors to protect fishers from flies, mosquitos and other insects, particularly when the vessel is operating in mosquito affected areas. Given the prevailing climates and geographical areas in which most UK vessels operate, there is a low incidence of this for UK vessels.
- Noise and Vibration. (Convention, Annex III paragraph 21-22) Extension of noise and vibration obligations to cover non-employed fishers. It is believed that most of the necessary measures are already in place, partly because some of the vessels which have non-employed fishers working on board also have employed fishers, so the measures are already in place for them, and partly because it is believed that most vessels which have only the Skipper and non-employed fishers on board will voluntarily meet these standards for their own comfort. While it is important that many statutory rights enjoyed by employed fishers are extended to non-employed fishers, there are a number of cases where non-employed fishers have a significant say in the running of the vessel. There are even some cases where non-employed fishers are the owner/Skipper's family members, so such owner/skippers' are already especially motivated to look after them.
- Sleeping Accommodation spatial minima. (Convention, Annex III paragraph 37-38) The Convention imposes increased spatial minima for vessels over 24 metres, specifically not less than 1.5m² for vessels over 24 metres but less than 45 metres, and not less than 2m² for vessels of 45 metres and over. This is compared with the existing UK standards of 0.9m² for vessels between 26.8 and 35.1 metres, and 1.0m² for vessels of 35.1m² and over. The Convention allows competent authorities in member states to permit 1.0m² and 1.5m² respectively, but the Social Partners' Agreement (SPA) does not. According to the Explanatory Notes to the SPA this is because the flexibility was allowed when the Convention was first drafted for non-EU states which had difficulty complying due to the normal design of their vessels and physical dimensions of their populations.
- Berth sizes. (Convention, Annex III paragraph 45-46) The Convention imposes a minimum berth size for vessels of over 24 metres in length, namely not be less than 198 by 80 centimetres (cm). This compares with minima of 190 x 68cm in existing UK law. The Convention allows competent authorities in member states to permit 190cm and 70cm respectively, but the Social Partners' Agreement (SPA) does not. According to the Explanatory Notes to the SPA this is because the flexibility was allowed when the Convention was first drafted for non-EU states which had difficulty complying due to the normal design of their vessels and physical dimensions of their populations.
- Privacy for men and women. (Convention, Annex III paragraph 50) The Convention imposes a requirement that accommodation be situated or equipped, as practicable, so as to provide appropriate levels of privacy for men and women.
- Hot drinks. (Convention, Annex III paragraph 55) The Convention imposes a requirement that a facility for hot drinks is available to fishers at all times.

- Sanitary facilities. (Convention, Annex III paragraph 61) The Convention imposes a requirement that on vessels of 24 metres and over where sleeping rooms do not have en suite facilities, there must be a wash basin, toilet and a shower or tub for every 4 persons. This compares with existing UK requirements which broadly require one wash basin per 6 persons and one water closet per 8 persons. The Convention allows competent authorities in member states to permit one shower/tub or both and one wash basin for every six persons or fewer, and at least one toilet for every eight persons or fewer, but the Social Partners' Agreement (SPA) does not. According to the Explanatory Notes to the SPA this is because the flexibility was allowed when the Convention was first drafted for non-EU states which had difficulty complying due to the normal design of their vessels and physical dimensions of their populations.



A bit of a hole - sanitary facilities onboard one fishing vessel

- Laundry facilities. (Convention, Annex III paragraph 65) The Convention extends laundry requirements including ironing facilities, adequate ventilation, heating and provision of lines for the laundry room, depending on the size of the vessel. Although the obligation in UK law to have facilities for washing and drying clothes does not include this detail, it is considered that these are implicit and will not impose an additional burden on vessel owners.

Although the requirements for an area to wash and dry clothes apply to a wide range of vessels, the ironing facility requirement only applies to vessels of 24 metres and over, which are away for considerable periods of time.

- Eating utensils and bed linen. (Convention, Annex III paragraph 69) The Convention imposes a requirement that eating utensils and bed linen be provided to fishers. Although the UK legislation does not cover this, eating utensils are normally supplied and bed linen, if not already supplied, can be re-charged.
- Recreational facilities. (Convention, Annex III paragraph 70) The Convention imposes an obligation on owners of vessels of 24 metres or more to provide recreational facilities, and permits mess rooms to be used for this purpose. Existing UK legislation says wherever practicable, recreational facilities should be provided. While it appears at first glance that the Convention changes this from a recommendation to an obligation, the use of the word “appropriate” in the convention and “wherever practicable” and “should” in UK legislation indicates that these obligations are not as far apart as they may first appear, as both can be applied appropriately and proportionately. It is believed that recreational facilities in the mess room can only normally involve board and card games – perhaps on a larger vessel a table tennis table – that the obligation is in any case very minor.
- Reasonable communication facilities. (Convention, Annex III paragraph 71) The Convention imposes an obligation on owners to provide reasonable communication facilities but allows the cost to be re-charged up to the actual cost incurred by the owner. This is not covered by existing UK legislation.
- Separate Galley. (Convention, Annex III paragraph 74) The Convention imposes an obligation for vessels of 24 metres and over to have a separate galley. This requirement is not in existing UK legislation.
- Storage requirements for butane and propane containers. (Convention, Annex III paragraph 75) The Convention imposes requirement that butane and propane containers be stored on open deck and have protection. This is not specifically covered by existing UK legislation, but is considered normal best practice anyway.
- Quality, quantity and variety of food and cultural and religious practices. (Convention, Annex III paragraph 78) The Convention imposes an obligation for the provision of food sufficient quality, quantity and variety. Regard is also to be taken of fishers’ cultural and religious practices when supplying food. This enhances a less prescriptive obligation in UK law covering only food for 24 metres and over vessels and water.
- Waste in sealed containers. (Convention, Annex III paragraph 82) The Convention imposes requirement that waste be kept in well-sealed containers and away from food handling areas whenever necessary. This is not a specific requirement in existing UK legislation, but is considered normal practice and common sense.
- Extension to non-crew accommodation areas. (Convention, Annex III paragraph 7) The Convention gives discretion to member states to extend the crew accommodation obligations in Annex III related to noise, vibration, heating, air conditioning and lighting to enclosed working spaces and storage compartments.

The UK Social Partners requested that this be done. However, as these matters are already covered in existing UK law, no further action is required to implement them.²

Food and Water. Although existing legislation on the supply of food and water to employed fishers needs to be extended to non-employed fishers, this only reflects what happens in reality anyway.

Medical Care. There is already an obligation in s45(1) of the Merchant Shipping Act 1995 that an employer must pay reasonable costs for medical care for an employed fisher outside the UK, if he/she has a condition for which treatment cannot be postponed without impairing efficiency. Although this obligation will be extended to (i) non-employed fishers, (ii) fishers receiving treatment in the UK and relates to (iii) “serious injury or illness”. There are also existing provisions relating to medical stores in MSN 1768(M+F), and mandating First Aid Training for all commercial fishers in r2(1)(a)(iii) of the Fishing Vessels (Safety Training) Regulations 1989 (SI 1989/126).

Occupational Health and Safety. The Convention extends normal health and safety provisions to non-employed fishers. This includes the owner ensuring that Risk Assessments are carried out to assess risks to non-employed fishers as well as employed ones, although really this is “best practice” already.

Social Security. No adjustment currently required to state-provided social security in order to comply with the Convention.

Sickness, injury or death. The Convention imposes an obligation to have protection for the fisher in the event that compensation is owed. The liability for compensation is likely to arise in the form of employer’s liability in respect of an occupational injury, or special or general damages in tort for things which are not so covered. This will include not only things concerning employed persons which fall outside the normal employers responsibility, but also those things which are currently covered for an employed person but are not for a non-employed (eg., share) fisher. There is currently no requirement for protection to underpin these liabilities.

Fisherman’s widow quote

“.... It’s almost impossible to get decent life insurance for fishermen because the work is so dangerous which means if the bread winning fishermen die, the families are not only crippled by the emotional loss but the financial one too.” *Jane Dolby, fisherman’s widow and driving force behind “The Fishwives Choir” - reported in an article in the Fishermen’s Mission Newsletter 2012.*

Compliance and enforcement. There will be a requirement under the Convention for the member state to inspect vessels against the Work in Fishing Convention standards and for the vessel owner to present their vessel for inspection.

As well as being inspected, commercial fishing vessels which remain at sea for more than 3 days and which fall into the following categories will need to carry certification against the Convention standards:

- a) are 24 metres and over Registered Length; and/or
- b) which navigate in excess of 200 nautical miles from the coast or beyond the outer edge of the continental, whichever is greater;

² SI 2007/3077 The Merchant Shipping and Fishing Vessels (Control of vibration at Work) Regulations 2007 and SI 2007/3075 The Merchant Shipping and Fishing Vessels (Control of noise at Work) Regulations 2007 <http://www.legislation.gov.uk/uksi/2007/3077/contents/made> <http://www.legislation.gov.uk/uksi/2007/3075/contents/made>

While meaningful figures cannot be ascertained for vessels against these criteria, it is assumed that, given the vessels with a reasonable capability to fulfil these criteria are considered to be the ones of 15 metres or over, that these will be the vessels which meet these criteria, ie., 15-24 metres and 24 metres and over commercial fishing vessels.

Costs of the proposed legislation (Option 1)

Being a Convention with worldwide application, and given that any UK fishing vessels visiting ports in ratifying countries (which are expected to be most coastal states with fishing industries within the foreseeable future) will have to be compliant, its effects will be virtually impossible to escape for UK fishing vessels wishing to trade internationally.

Therefore, MCA expects that, for UK fishing vessels that visit foreign ports, a proportion of the additional costs of complying with the minimum mandatory requirements of the Convention would have been incurred anyway under the 'Do Nothing' scenario. As this proportion is uncertain, we do not know the extent to which any costs of complying with the minimum mandatory requirements of the Convention are truly additional costs of the proposed Regulations or whether they would have occurred anyway under the Do Nothing scenario.

Given these uncertainties, this Impact Assessment assesses the additional costs to business of complying with the minimum mandatory requirements of the Convention relative to the requirements of existing UK legislation or existing industry practice as applicable. However, as discussed above, it is not possible to establish the extent to which the additional costs of complying with the minimum mandatory requirements of the Convention would truly be additional costs of the proposed Regulations.

Medical certification

There will be some costs associated with medical certification for fishers This is because there has not previously been a statutory requirement for medical certification for fishers unlike the Merchant Navy seafarers, who are required to have medical certification.

Existing Merchant Navy medical schemes comprise:

ENG1s

An ENG1 statutory medical certificate normally lasts a maximum of 2 years for seafarers over the age of 18. The cost of the statutory ENG1 certificate for merchant seafarers is currently set at £80³, and must be carried out by an MCA Approved Doctor. ENG1 forms are serially numbered, controlled documents and are only supplied to MCA Approved Doctors, who are based in specific locations. There may also be a cost associated with travel to an Approval Doctor.

It should be noted that the fee for an ENG1 statutory medical certificate is currently under review and, subject to ministerial approval, is likely to will rise to £95 sometime later this year, then £105 in 2018 and £115 in 2020. This impact assessment does not currently reflect this likely cost increase.

The use of an ENG1 certificate is not limited to geographical sea areas, so it can be used in any sea area of the world, unless it is specifically restricted to certain areas by an Approved Doctor on medical grounds. The approved doctor will always give a decision at the appointment as to whether the seafarer is fit to work or not.

It is possible to appeal against a decision relating to an ENG1 (either a failure or a restriction). These are known as "Medical Reviews" and are carried out by an MCA Medical Referee.

³ £80 is the statutory cost of the ENG1, laid down in Part 3 of Schedule 1 to the Merchant Shipping (Fees) Regulation 2006 (SI 2006/2055).

ML5s

The ML5 Seafarer Medical Report is completed by any doctor registered with the UK General Medical Council (GMC) with a licence to practice. It is a screening form with questions answered with a yes or no. If a seafarer is fit for duty (all questions answered with a no on the form) the ML5 form is completed and a certificate in the form signed by the doctor. The MCA only becomes involved in the process if there is a 'yes' box ticked or a condition/medication has been mentioned in section 9 of the form. An ML5 can be valid for up to a maximum of 5 years, but for seafarers aged 65 or over is only valid for up to a maximum of 1 year. The cost of an ML5 can generally vary between £80 and £150⁴.

The ML5 medical certification may only be used by those working up to a distance of 60 miles from a safe haven in the UK, so if the scheme is extended to commercial fishing vessels, operation up to 60 miles would be the cut-off point for permitting the use of an ML5 rather than an ENG1.

Use of Medical certificates in the context of the Convention

It is planned to extend and adapt the existing medical certificate schemes for seafarers (ENG1 and ML5s) rather than create new schemes for fishers.

Assumptions

In practice the MCA is proposing to make the ENG1 medical certificate mandatory for all fishers who work on board vessels of 16.5m length or more and to any others working on board smaller vessels which operate more than 60 miles from the coast of the UK. This is to tie in with the UK's current Training and Certification requirements for fishers which apply to fishers working onboard vessels of 16.5m or more.

Given the lack of data on the number of vessels that operate inside and outside 60 miles and that the existing statistical information about fishing boats categorises them as 15 metres or less or over 15 metres we have not been able to cost for use of ENG1s for vessels of 16.5 metres and above and smaller vessels operating more than 60 miles from the coast. Because of this for costing purposes we have assumed that vessels 15 metres in length and over travel outside the 60 miles and those of 15 metres or less do not.

We have assumed that all fishers on vessels of over 15 metres will be required to have ENG1s, while those on vessels of 15 metres or less will have the option of getting an ML5 instead, if they wish.

A fisher may have to travel to get to an MCA Approved Doctor to obtain an ENG1 which is a further unquantified cost of the ENG1 certificate. It is therefore assumed that the lowest transition cost for a fisher obtaining medical certification will be £80 (ENG1 fixed price and lowest known cost for an ML5) and the highest £150 (Highest known cost for an ML5). For ENG1s there will be an ongoing annual cost of £40 (equivalent to £80 averaged over two years) and for a ML5 there will be an ongoing annual cost of £16-£30 (Equivalent to £80-£150 averaged over 5 years).

Throughout the IA we assume the number of vessels remain constant in the absence of reliable forecast. The number of vessels has been decreasing in recent years however we do not know if this trend will continue. Keeping the number of vessels constant is deemed to be a proportionate measure in the absence of robust projections.

⁴ ML5 is likely to cost at least this much as an ENG1. As GPs can charge what they deem appropriate for an ML5. Anecdotally the cost of these vary between £80 and £150.

Question 1 to consultees: Do you agree with our assumption on the operational area of different ship sizes? If not can you provide evidence to support an alternative assumption?

It has also been assumed based on anecdotal evidence provided by the MCA that the average number of fishers working onboard vessels are as follows:

Table 2.

Length of Fishing Vessel	Average Number of Fishers onboard
Vessels of over 24 metres	7
Vessels of 15 metres and over but less than 24 metres	4.5
Vessels of less than 15 metres	1.7

Question 2 to consultees: Do you agree with our assumption regarding the average number of fishers onboard different size categories of vessel? If not can you provide evidence to support an alternative assumption?

One-off set up costs to fishers

There are approximately 12,000 fishers employed in the commercial fishing industry (see footnote 1) Table 3 shows how we estimate that this figure is split between the different vessel lengths and the set up costs of every fishers getting appropriate medical certification..

Table 3.

Length of Fishing Vessel	Estimated average No. of Fishers onboard	No. of vessels	Total Estimated No. of Fishers	Cost per medical (low)	Total (low)	Cost per medical (high)	Total (high)
Over 24 metres	7	153	1071 rounded to 1100	£80	£88,000	£80	£88,000
15 metres and over but less than 24m	4.5	496	2232 rounded to 2200	£80	£176,000	£80	£176,000
Less than 15 metres	1.7	5068	8616 rounded to 8600	£80	£688,000	£150	£1,290,000
Total			11900 rounded to 12000		£952,000		£1,554,000

Total transition cost to fishers for medical certification – £952,000 (Low) and £1,554,000 (High)

Ongoing costs to fishers

Table 4 shows the ongoing annual cost to fishers of keeping appropriate medical certification up to date. Please note that as an ENG 1 normally lasts for 2 years and an ML5 for 5 years. The start up costs shown in table 3 last for 2 years for an ENG1 holder and 5 years for a ML5 holder. Therefore ongoing costs calculations shown in table 4 and 5 start at 2 years and 5 years respectively from the start date.

Table 4. Low scenario

Length of Fishing Vessel	Typical No. of Fishers onboard	No. of vessels	Total No. of Fishers	Average Annual Cost (low)	Number of Years Covered	Total annual cost
Over 24 metres	7	153	1100	£40	2	£44,000
15 metres and over but less than 24m	4.5	496	2200	£40	2	£88,000
Less than 15 metres	1.7	5068	8600	£16	5	£137,600
Total			11900 rounded to 12000			£269,600

Table 5. High scenario

Length of Fishing Vessel	Typical No. of Fishers onboard	No. of vessels	Total No. of Fishers	Average Annual Costs (High)	Number of Years Covered	Total annual cost
Over 24 metres	7	153	1100	£40	2	£44,000
15 metres and over but less than 24m	4.5	496	2200	£40	2	£88,000
Less than 15 metres	1.7	5068	8600	£30	5	£258,000
Total			11900 rounded to 12000			£390,000

Total ongoing cost to fishers for medical certification – £269,600 (low scenario) and £390,000 (high scenario)

Cost to government

There will be some staff time, including input from the Chief Medical Adviser, to develop adapted standards for fishers. There will also be a need to draft new Marine Notices (Merchant Shipping Notice (MSN) and Marine Guidance Note (MGN) to promulgate information about the new arrangements. A new Statutory Instrument (SI) needed to underpin the MSN, together with the MSN itself, will have to be consulted upon, although it may be possible to include this in a more general SI transposing aspects of the Convention.

It may also be necessary to recruit additional appeal referees for the ENG1 equivalent scheme, and medical assessors for the ML5 equivalent scheme. On top of this there will be an increase to

the administrative costs of handling the ML5 equivalents and appeals from both schemes, costs of postage for the transmission of documentation to Doctors and fishers, photocopying necessary documentation and purchasing (and possibly designing) additional pre-printed forms for the ENG1 equivalent scheme. (For ENG1 and equivalents these are controlled documents and cannot be printed by the individual from the internet as the ML5 type forms can.)

There will also be some costs for government in order to expand and adapt the existing medical schemes and increase the MCA Approved Doctor network. The number of Doctors and their location is driven by demand. The new requirements for fishers to hold ENG1s will increase demand and may cause demand to be sufficient to warrant an Approved Doctor in a location which previously has not had one. However, ENG1 medical certification for officers on fishing vessels will be required anyway for a small number of persons when the UK implements the new Standards for Training, Certification and Watchkeeping (for Fishing Vessel Personnel) Convention, 1995, which came into force internationally in 2012.

Appeals for ENG1s are called “Medical Reviews” and appeals for ML5s are called “Referrals”. ENG1 Medical Reviews (appeals) are a necessary part of the existing ENG1 medical scheme. These cost £280 each. Based on the 0.06% rate of review resulting from ENG1 examinations issued to Merchant Navy seafarers in 2014. (See Summary of Medical Examinations of Seafarers Conducted by approved Doctors annually⁵.) The extension of the ENG 1 scheme to the 3303 fishers working on vessels above 15m in length (See table 5) could generate a minimum of 2 additional appeals per year.

However, given that this is the first time that fishers have been required by law to undergo medical fitness examinations and get a medical certificate and there is no safe data regarding levels of fitness for fishers. We are making an assumption that that more health issues may be revealed in the first tranche of fishers’ medical examinations, resulting in a higher percentage rate of ENG1 Medical Reviews in the first year. After this we anticipate that the proportion of reviews will drop to a level closer to that for merchant seafarers, but are making a conservative estimate that it may remain higher for some years.

For the purpose of this consultation we have assumed that the initial spike in the number of ENG1 Medical Reviews in the first year will be 10 additional reviews, and thereafter there will be 5 additional reviews per year. The ten reviews in the first year is proportionally equivalent to the number of reviews in 2002 for merchant navy seafarers (see footnote 5)

Question 3 to consultees: Do you agree with our assumptions regarding the level of ENG 1 medical reviews likely for fishers. Have you any evidence to support an alternative assumption?

The number of ML5s currently issued per year is not known. This data is not collected. ML5s are used by Merchant Navy seafarers working onboard small vessels (such as work boats and small yachts). These seafarers are most likely to hold an MCA boatmasters licence or an RYA Commercial endorsement. We can make an assumption that the majority of seafarers who hold an MCA Boatmasters licence or an RYA Commercial endorsement will hold an ML5 Medical. Figures obtained from the RYA indicate that they issued 3778 commercial endorsements in 2014. The MCA has issued 5039 Boat Masters Licences since 2006 averaging 630 per year. If we make an assumption that all these seafarers get a ML5 ,we estimate that approximately 4400 ML5s are issued per year.

5

https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/423995/ENG_1_annual_medical_report_and_summary_2014.pdf

If a medical practitioner does not sign an ML5 certificate the seafarer may report this to the MCA and request a referral. The MCA sees about 647 ML5 referrals per year.

$\frac{647 \text{ referrals} \times 100}{4400 \text{ ML5s issued}} = 14.70\%$, rounded to 15%

15% of the current applications for a ML5 result in a medical referral.

It is believed that the fitness of persons currently requiring ML5 certificates for work relatively close to shore is more akin to the fitness of the fisher community. It has therefore been assumed that the percentage of referrals out of the total ML5 population for fishers will be similar to that which will occur in the non-fishing community. The figure of 15% has therefore been used to calculate the number of referrals expected from that part of the fisher community who will require ML5s.

Question 4 to consultees: Do you agree with our assumptions on the number of reviews per year? If not can you provide evidence to support a different assumption?

The cost of ENG1 Reviews is £280 each and the cost of ML5 Referrals (appeals) is only £55. The difference is due to the fact that the ML5 referrals are a paper exercise carried out by an occupational health advisor appointed by the MCA, whereas with an ENG1 Review the seafarer has to visit a Doctor (known as a Medical Referee).. The total number of fishers who will require ML5 examinations as a result of the new legislation has been taken as approximately 8600 which is the estimated total number of fishermen working on under 15 metre vessels from Table 3

$8600 \times 15\% = 1290$ approx. 1300 extra Referrals per year

Set-up costs to government

Because the Convention (and Social Partners' Agreement) require fishers to be medically examined and certificated, there will be an increase in persons undergoing ENG1 and ML5 medical examinations. This will result in an increase to the costs to government, via the MCA, in administering the Approved Doctors system. Note that this increase in costs is not offset by the fees charged for medical examinations since the fees are paid to Doctors and not the government.

Table 6: Staff costs are full-time equivalent cost supplied by the MCA's finance Branch.

Type of expenditure	Staff or number of units	Time	Cost per unit	Total
Adaptation of Standards	G5 x 1 SEO x 1	7 days 7 days	£541 x 7 = 3787 £206 x 7 = 1442	£5229
Consultation	SEO x 1 EO x 1	7 days 7 days	£206 x 7 = 1442 £138 x 7 = 966	£2408
Marine Notice (MSN, MGN), drafting	SEO x 1 EO x 1	3 days 1 days	£206 x 3 = 618 £138	£756
Additional Approved Doctors (Recruitment)	SEO x 1 EO x 1 AO x 1	3 days 3 days 3 days	£206 x 3 = 618 £138 x 3 = 414 £104 x 3 = 312	£1344

Purchase (and possible design) of additional medical certificate and AD Manual supplies.	G5 x 1 EO x 1	1 day 3 days	£541 £138 x 3 = 414	£955
Additional review referees (recruitment)	SEO x 1 EO x 1 AO x 1	1 day 1 day 1 day	£206 £138 £104	£448
Appointment of additional "ML5" type assessors	SEO x 1 EO x 1 AO x 1	1 days 2 days 2 days	£206 £138 x 2 = 276 £104 x 2 = 208	£690
Initial increase of ENG1 Reviews	10		£280	£2,800
Initial increase of ML5 referrals. Staff costs to process at an estimated rate of 15 per day	1300 AO x1	87 days	£55 x 1300 = £71,500 87 x £104 = £9,048	£80,548
Total				£95,178

Table 7 Ongoing costs to Government

After the initial set up of medicals for fishermen there are no significant increases to the cost of appointment of additional review referees or ML5 assessors. These costs will be absorbed into the existing processes. However there will be an ongoing uplift in administrative costs to process the estimated 1300 additional ML5 referrals per year

Type of expenditure	Staff	Time per year	Cost per unit	Total
Ongoing staff administration	AO x 1	87 days	£104	£9,048
Total				£9,048

For ENG1s, the total number issued in the last year for which statistics are available, (2013) is 54,311 (see footnote 5 on previous page). These statistics relate to merchant seafarers., If ENG1s are required for fishermen on 15-24 metre and 24 metre and over fishing vessels, it is estimated that 1100 + 2200= 3300 fishermen will require ENG1s. As the normal period of validity of ENG1s are 2 years, and assuming an even spread of fishers requiring ENG1s over that 2 year period, this means that the annual number of fishers requiring ENG1s will be $3300 \div 2 = 1650$.

to the additional number of fishers requiring ENG1s each year, 1650, dividing by the current number of ENG1s per year and multiplying by 100, this gives a percentage increase of 3.04% people requiring ENG1s each year, thus:

$$1650 \text{ additional ENG 1s} \times 100 = 3.04\%$$

$$54,311 \text{ ENG 1s per year}$$

This 3.04% figure has therefore been applied to the amount of money spent by government on maintaining the ENG1 and Approved Doctors seafarer medical system.

It has also been assumed that the percentage of ML5 Referrals for fishers will be the same as those for non-fishers, at 15% of the total per year .(8600 fishers x 15% = 1290 extra reviews) as identified in the Costs to Government section above. As previously mentioned, these cost £55 each.

Table 8

Type of expenditure	Annual cost	% New Reviews	Total additional yearly costs	
Conference costs	£10,000	3.04%	£327	
Audits of Doctors	£2,165	3.04%	£71	
Stationery printing of certificates	£11,200	3.04%	£366	
Ongoing staff administration costs (ML5)	£9,048	N/A	£9,048	
Type of expenditure	Cost per review	Current Annual Costs	No. of additional reviews	Total additional yearly costs
ENG1 Review annual costs of appeals(ongoing)	£280	£11,250	5	£1,400
ML5 Referral (annual cost of referrals)	£55	£38,500	1300	£71,500
Total				£82,712

Manning and Hours of Rest

The Convention extends the hours of work and rest provisions which are currently only applicable to employed fishers, also to non-employed fishers. It has not been possible to quantify this impact in monetary terms. Also, there is a Code in an existing Merchant Shipping Notice, MSN 1786(F), which provides flexibility for different types of fishing. This Code describes some objective technical/ operational circumstances in which exceptions from the standards may be required for certain types of fishing activity, and compensatory rest/ leave may need to be provided.

The impact on business of this is unknown, because there is no data on what hours non-employed/ share fishers work at present. However, if complied with, these provisions have the potential to enhance safety in this most dangerous of industries. This, like other matters in the Convention, are being discussed with industry and fisher representatives as part of the tripartite process. It is not possible to quantify the cost of extension of these provisions to non-employed (share) fishers because:

- a) a share fisher's earnings are dependent on the size of the catch, rather than a regular wage. Their earnings therefore vary enormously;
- b) numbers of share fishers are estimated, so not only are their earnings unknown but any multiplier by which any total would be found is also uncertain;
- c) the level of potential compliance is unknown. While the Secretary of State through the Maritime and Coastguard Agency (MCA) can insist that hours of work records are kept, and can check them when the vessel is in port, that is as far as enforcement can go, as it

is not possible to have an MCA inspector at sea on every vessel all the time. The potential for records to be falsified is therefore quite high compared with other aspects of the Convention and existing safety legislation, eg., an inspector check in harbour whether equipment is in good condition or a Fisher's Work Agreement contains the necessary statutory provisions, but gathering evidence that hours of work and rest were not complied with when the vessel was at sea, and that records were falsified, is much more problematic.

Fisher's Work Agreements

Fishers working on commercial fishing vessels will be required to be provided with Fisher's Work Agreements (FWA) regardless of their employment status. It has not been possible to quantify the cost of introducing FWAs, as fisher numbers are estimated, and the cost of a particular unit of time for each vessel owner varies drastically, so any attempt to cost their time would be meaningless.

However, the cost of providing FWAs will be minimised by the fact that, although they are individual to fishers, will broadly be the same in format with only minor differences in practice. It is expected a Master copy will normally be kept on computer and copied printed for each fisher with only minor amendments having to be made, e.g., name, dates of employment National Insurance number etc.. It will therefore in practice not be necessary to re-write the FWA for each fisher – it will just be a case of making the necessary minor adjustments and printing them off. Even this small resource cost will be partially offset by the fact that it will no longer be necessary to maintain Crew Agreements for those relatively few fishers who are employed, and the cost of this Convention compliance will also be offset by a reduction in the risk of delays if the vessel visits a foreign port.

Although FWAs will be required for both employed and non-employed fishers, as opposed to Crew Agreements, which only relate to employed fishers, it is nevertheless necessary to have contracts with non-employed (share) fishers otherwise the system for sharing the catch and permissible deductions will be uncertain. The FWA will therefore be a replacement for this document, so although a little more information will be required to be kept, this will be minor and probably a one-off entry onto the document which can then be carried forward each time it is printed.

Additionally, experience from the Maritime Labour Convention, 2006 (MLC) Impact Assessment on Seafarer Employment Agreements (SEA) indicated that the cost for MLC SEAs was insignificant and that affected far more vessels and persons than the obligation in the Work in Fishing Convention, although crew agreements were more widely used than in the fishing industry. The cost implication of the FWA is therefore not considered to be great.

Question 5 to consultees: Consultees are invited to provide views and where possible costs related to the provision of FWAs on their vessel(s) if they disagree with this analysis.

Repatriation

The Convention extends the vessel owner's Repatriation to non-employed fishers as well as employed ones. This is not expected to result in significant costs, because:

- a) relatively few UK registered fishing vessels visit foreign ports, although exact data is not held on this;

- b) the incidences of a fisher having to be repatriated from a foreign port are, on anecdotal evidence, very few.

This is against the background of the number of employed fishers increasing as migrant workers are recruited from abroad. But this is an increased cost against the repatriation provisions in existing law, and not against the new obligations introduced by the Convention.

Question 6 to consultees: Consultees are invited to provide figures relating to the number of incidences of fishers having to be repatriated to the UK from abroad, and as far as possible the costs associated with this.

Recruitment and Placement

No additional obligations are imposed by the Convention in this subject area. There are therefore no additional costs arising from it.

Accommodation

There are some basic crew accommodation requirements in Article 26 of the Convention which apply to all fishing vessels. These comprise things like basic sanitary facilities and complaints procedures.

However, the detailed provisions in Annex III mainly apply to new vessels and existing vessels on which the crew accommodation has been significantly modified.

- ***“Klondyking”.*** (Convention, Annex III paragraph 6) Where fishers are working on a “feeder” vessel which does not have the appropriate accommodation and sanitary facilities, they must be provided with those facilities on the mother vessel. (The practice of using a feeder vessel and a mother ship is known as “Klondyking”.) It is believed that in practice such facilities are already supplied on the mother vessel, so there will be no significant costs associated with this.
- ***Question 7 to consultees: Consultees with knowledge of “Klondyking” are invited to comment on whether this is correct and if not, are invited to provide estimates of costs which would be imposed by this requirement.***
- ***Headroom.*** (Convention, Annex III paragraph 14) An increase in minimum headroom from 1.9 to 2.0 metres. The minimum in existing UK law is 1.9m. While the Convention allows competent authorities in member states to permit 1.9 metres instead of 2.0 metres, the Social Partners’ Agreement does not. According to the Explanatory Notes to the SPA this is because the flexibility was allowed when the Convention was first drafted for non-EU states which had difficulty complying due to the normal design of their vessels and physical dimensions of their populations. UK Social Partners (industry and fisher representatives) have indicated that an increase to 2.0 metres would not pose a problem.
- ***Question 8 to consultees: Consultees are invited to comment on this and if costs are considered significant, where possible to provide estimated costings associated with this requirement.***

➤ Screen doors. (Convention, Annex III paragraph 19) There is an obligation in the Convention to take all practical measures to protect fishers from flies, mosquitos and other insects, particularly when the vessel is operating in mosquito affected areas. Given the prevailing climates and geographical areas in which most UK vessels operate, there is a low incidence of this for UK vessels. In any case screen door fitting is low cost. (do we know the actual cost of fitting a door.

➤ ***Question 9 to consultees: Consultees are invited to comment on this and if costs are considered significant, where possible to provide estimated costings associated with this requirement.***

➤ Noise and Vibration. (Convention, Annex III paragraph 21-22) Extension of noise and vibration obligations to cover non-employed fishers. Some of this will be executed in the design phase of a vessel, and non-design aspects are already implemented as normal practice.

➤ ***Question 10 to consultees: Consultees are invited to comment on this and if costs are considered significant, where possible to provide estimated costings associated with this requirement.***

Sleeping Accommodation spatial minima. (Convention, Annex III paragraph 37-38) The increased spatial minima due to the Convention apply mainly to newly built vessels (not existing vessels unless, and to the extent that, crew accommodation is modified after the Convention comes into force). Builders have indicated that the costs of building new vessels slightly larger are not significant.

➤ ***Question 11 to consultees: Consultees are invited to comment on this and if costs are considered significant, where possible to provide estimated costings associated with this requirement.***

➤ Berth sizes. (Convention, Annex III paragraph 45-46) The increased minimum berth size is marginal and builders have indicated that the costs of building slightly larger are not significant.

➤ ***Question 12 to consultees: Consultees are invited to comment on this and if costs are considered significant, where possible to provide estimated costings associated with this requirement.***

➤ Privacy for men and women. (Convention, Annex III paragraph 50) The Convention imposes a requirement that accommodation be situated or equipped, as practicable, so as to provide appropriate levels of privacy for men and women. This is considered normal practice where practicable anyway.

➤ ***Question 13 to consultees: Consultees are invited to comment on this and if costs are considered significant, where possible to provide estimated costings associated with this requirement.***

- Hot drinks. (Convention, Annex III paragraph 55) The Convention imposes a requirement that a facility for hot drinks is available to fishers at all times. This is considered current normal practice and negligible cost.
- Sanitary facilities. (Convention, Annex III paragraph 61) The Convention imposes a requirement that on vessels of 24 metres and over where sleeping rooms do not have “en suite” facilities, there must be a wash basin, toilet and a shower or tub for every 4 persons. This compares with existing UK requirements which broadly require one wash basin per 6 persons and one water closet per 8 persons. The Convention allows competent authorities in member states to permit one shower/tub or both and one wash basin for every six persons or fewer, and at least one toilet for every eight persons or fewer, but the Social Partners’ Agreement (SPA) does not. According to the Explanatory Notes to the SPA this is because the flexibility was allowed when the Convention was first drafted for non-EU states which had difficulty complying due to the normal design of their vessels and physical dimensions of their populations. Builders have indicated that the costs of building slightly larger are not significant.
- ***Question 14 to consultees: Consultees are invited to comment on this and if costs are considered significant, where possible to provide estimated costings associated with this requirement.***
- Laundry facilities. (Convention, Annex III paragraph 65) The Convention extends laundry requirements to include ironing facilities, adequate ventilation, heating and provision of lines for the laundry room. Although the obligation in UK law to have facilities for washing and drying clothes does not include this detail, it is considered that these are implicit and will not impose an additional burden on vessel owners.
- ***Question 15 to consultees: Consultees are invited to comment on this and if costs are considered significant, where possible to provide estimated costings associated with this requirement.***
- Eating utensils and bed linen. (Convention, Annex III paragraph 69) The Convention imposes a requirement that eating utensils and bed linen be provided to fishers. Although the UK legislation does not cover this, eating utensils are normally supplied and bed linen, if not already supplied, can be re-charged.
- Recreational facilities. (Convention, Annex III paragraph 70) The Convention imposes an obligation on owners of vessels of 24 metres or more to provide recreational facilities, and permits mess rooms to be used for this purpose. Existing UK legislation says wherever practicable, recreational facilities should be provided. While it appears at first glance that the Convention changes this from a recommendation to an obligation, the use of the word “appropriate” in the convention and “wherever practicable” and “should” in UK legislation indicates that these obligations are not as far apart as they may first appear, as both can be applied appropriately and proportionately. It is believed that recreational facilities in the mess room can only normally involve board and card games – perhaps on a larger vessel a table tennis table – that the obligation is in any case very minor.

- Reasonable communication facilities. (Convention, Annex III paragraph 71) The Convention imposes an obligation on owners to provide reasonable communication facilities but allows the cost to be re-charged to fishers up to the actual cost incurred by the owner. This is not covered by existing UK legislation, although this aspect of the Convention is not expected to change normal practice of a vessel owner providing basic facilities of this sort to the fishers onboard, although it there are any instances of vessel owners seeking to make a profit from fishers for charging these facilities (although there is no evidence of this currently happening) the Convention should help to limit such “sharp practice”.
- Separate Galley. (Convention, Annex III paragraph 74) The Convention imposes an obligation for vessels of 24 metres and over to have a separate galley. This requirement is not in existing UK legislation. Builders have indicated that the costs of building slightly larger are not significant.
- ***Question 16 to consultees: Consultees are invited to comment on this and if costs are considered significant, where possible to provide estimated costings associated with this requirement.***
- Storage requirements for butane and propane containers. (Convention, Annex III paragraph 75) The Convention imposes requirement that butane and propane containers be stored on open deck and have protection. This is not specifically covered by existing UK legislation, but is considered normal best practice anyway.
- Quality, quantity and variety of food and cultural and religious practices. (Convention, Annex III paragraph 78) The Convention imposes an obligation for the provision of food sufficient quality, quantity and variety. Regard is also to be taken of fishers’ cultural and religious practices when supplying food. This enhances a less prescriptive obligation in UK law covering only food for 24 metres and over vessels and water. It is not thought this will make much difference in practice and therefore any costs which do arise will be negligible.
- Waste in sealed containers. (Convention, Annex III paragraph 82) The Convention imposes requirement that waste be kept in well-sealed containers and away from food handling areas whenever necessary. This is not a specific requirement in existing UK legislation, but is considered normal practice and common sense.
- Extension to non-crew accommodation areas. (Convention, Annex III paragraph 7) The Convention gives discretion to member states to extend the crew accommodation obligations in Annex III related to noise, vibration, heating, air conditioning and lighting to enclosed working spaces and storage compartments. The UK Social Partners requested that this be done. However, as these matters are already covered in existing UK law, no further action is required to implement them.

Food and Catering

Although existing provisions on the supply of food and water need to be extended to non-employed fishers, this is not expected to give rise to any additional burden, given that there is

such an obligation on the owner/Master already, so it is what normally happens in practice anyway. Also, the provision allows for the vessel owner to make a charge to share fishers for these things as an operational cost, so this also means that no extra cost will be incurred by vessel owners.

Medical Care

There is already an obligation in s45(1) of the Merchant Shipping Act 1995 that an employer must pay reasonable for medical care for an employed fisher outside the UK, if he/she has a condition for which treatment cannot be postponed without impairing efficiency. Although this obligation will be extended to (i) non-employed fishers, (ii) fishers receiving treatment in the UK and relates to (iii) “serious injury or illness”, no significant additional cost is envisaged because:

i) non-employed fishers are mainly UK nationals who will receive free treatment under the NHS in their own right, and rarely will a fisher (non-employed or otherwise) require treatment abroad as most fishing vessels do not visit foreign ports;

ii) fishers treated in the UK will in the overwhelming majority of cases be treated free on the NHS;

iii) to Convention wording of “serious injury or illness” in reality is not expected to extend the scope of the existing “cannot be postponed without impairing efficiency”.

Although anecdotal indications are that there has been an increase in the number of migrant workers being used in the UK fishing industry, particularly in Scotland, these will normally be employed persons, and are still understood to be fairly few in number. While a number of the migrant workers are from within the EU, so reciprocal medical care arrangements apply anyway, and others from non-EU states with which reciprocal arrangements exist, some may be from countries outside the EU with which reciprocal arrangements do not exist. The extension to the owner’s obligation to pay for medical care to the UK as well as abroad may therefore result in some small additional cost to the shipowner. But this is not considered to be significant due to the numbers involved.

It is therefore considered there will be no significant cost burden on any party due to the medical care requirements of the Convention.

As these costs would have been incurred by fishers in the absence of any regulation there is no overall net increase in costs. Instead the shipowner now covers the small additional healthcare costs of non-EU workers whose country does not have a reciprocal medical care agreement instead of the fishers themselves.

Question 17 to consultees: Consultees are invited to provide views, and where possible a breakdown costs related to the extension of the medical care provisions, if they disagree with this analysis.

Occupational Health and Safety

The main thrust of the Convention’s health and safety provisions is their extension to non-employed fishers. It is obligatory, under the existing Regulation 7 of the Merchant Shipping and Fishing Vessels (Health and Safety at Work) Regulations 1997 (SI 1997/2962) for an employer to carry out Risk Assessments of risks to employees. Regulation 7(2) extends this to “... *other persons on board ship in so far as they may be affected by the acts and omissions of the employer*”. It is also understood that many fishing vessel owners apply the risk assessment principle to non-employed fishers as well as a matter of “best practice”. In addition to this, to place a monetary value on the time taken to carry out a risk assessment would require data on the

earnings of the person carrying out the assessment, which will normally be the skipper of the vessel, who is often the owner and in any case invariably is paid depending on the value of the catch. Suitable data on this does not exist.

Question 18 to consultees: If consultees disagree with this analysis they are invited to express their views accompanied by as much cost evidence as possible.

Social Security

No adjustment currently required to state-provided social security.

Sickness, injury or death

This is not a liability to pay compensation, but an obligation to have protection for the fisher in the event that compensation is owed. The liability for compensation is likely to arise in the form of employer's liability in respect of an occupational injury, or special or general damages in tort for things which are not so covered. This will include not only things which fall outside the normal employers responsibility but also those things which would be covered for an employed person but are not for a non-employed (e.g., share) fisher.

It has not been possible to ascertain the potential cost of insuring against these additional liabilities, as this will not be known until insurers and P&I Clubs have been able to consider the risks and what they will need to charge for them.

Question 19 to consultees: Consultees who may be considering providing such cover are invited to comment on any costs implications relating these liabilities.

Compliance and enforcement

The current cost of one hour of an MCA surveyor's time doing statutory work is £94, and has been for many years. Government policy is encouraging government Departments to move to full cost recovery for statutory services provided. The MCA is progressing this and the MCA has recently consulted on a move towards full cost recovery with a rise in the hourly rate to £147. This is entirely unrelated to the Work in Fishing Convention, and involves separate legislation covering the MCA's work as a whole, with its own Impact Assessment. However, it is noted here because the MCA's hourly rates are material to the assessment of the cost to carry out surveyors against the standards of this Convention. The proposed new fees will not be implemented before April 2017 at the earliest. However this time scale is uncertain. Because of the uncertainty for the purpose of this impact assessment we have assumed that the hourly rate will remain at £94 for the first year of costing and that thereafter costs for surveyor time will be £147 per hour.

The intention is to normally combine fishing vessels visits for existing safety surveys and inspections with Work in Fishing Convention inspections, thus saving on cost for both HM government and for the fishing vessel owner. The cost of carrying out Work in Fishing Convention inspections has therefore been considered in terms of additional hours spent on a vessel to carry out such inspections., depending on when it is carried out. It is estimated that typical additional hours required will differ depending on the size of fishing vessel, but are expected to be approximately as identified in the Tables below.

Ongoing costs - per vessel costs (Additional hours needed have been estimated by MCA senior surveyor management)

Table 9

Length of fishing Vessel	Estimated Additional Hours required	Cost per hour Year 1	Cost per hour Year 2-10	Total cost per vessel per visit Year 1	Total cost per vessel per visit Year 2-10
45 metres and over	4	£94	£147	£376	£588
24 - 45 metres	3	£94	£147	£282	£441
15 - 24 metres	3	£94	£147	£282	£441
Under 15 metres	1	£94	£147	£94	£147

Table 10 Total Ongoing Costs by Year

Length of fishing Vessel	Total cost per vessel, per visit Year 1	Total cost per vessel, per visit Year 2	Number of Vessels	Total cost all vessels, one visit (£) Year 1	Total cost all vessels, one visit (£) Years 2-10
45 metres and over	£376	£588	29	£10,904	£17,052
24 - 45 metres	£282	£441	124	£6,768	£54,684
15 - 24 metres	£282	£441	496	£139,872	£218,736
Under 15 metres	£94	£147	5,068	£476,392	£747,996
Total				£633,936	£1,038,468

Visits will only be required twice every five year period, or twice in every four year period for vessels of 24 metres and over. This is because, while the maximum length of validity for a Convention certificate is 5 years, fishing vessels of 24 metres and over already have to undergo survey and certification for the International Fishing Vessels Certificate (IFVC) the maximum duration of which is 4 years, and for which a mid-term visit is also required. It is therefore considered to be more economical for both the fishing vessels owner and the government to combine the Work in Fishing Convention inspection with the IFVC survey to save on time and travel costs. The reduction of the 5 year cycle to 4 years for vessels of 24 metres the frequency of visits has been designed in a way that the convention requirements are implemented in a way that minimises burdens on business. This has been agreed on a tripartite basis with representatives of vessel owners and fishers.

The above figures for costs worked out per visit are taken in the tables below and spread over the period to which they apply, to get an annual cost.

Table 11.

Length of fishing Vessel	Total cost All vessels, one visit (£) Year 1	Total cost All vessels, one visit (£) Year 2-10	Divided by number of years duration of certificate to get annual cost	Total annual cost (£) Year 1	Total annual cost (£) Year 2-10
45 metres and over	10,904	17,052	2	5,452	8,526
24 - 45 metres	6,768	54,684	2	3384	27,342
15 - 24 metres	139,872	218,736	2.5	55,949	87,494
Under 15 metres	476,392	747,996	2.5	190,557	299,198
Total				255,342	422,560

Transition costs

While the intention is to combine the Convention inspections with existing survey and inspections, thus saving time and money for both owner and government, when the Convention is being introduced, there may be a requirement for some vessels to have their initial Convention inspection before the existing surveys/inspections are due. Assuming that all existing surveys/inspections are spread evenly over time, with intervals of 2.5 years (under 24 metre vessels) or 2 years (24 metre and over vessels), it is estimated that there may be a period of a year where initial Convention inspections are required which will not be harmonised with existing inspections. This will be 60% of under 24m vessels and 50% of 24m and over vessels. It is further assumed that this year will be the business year from April 2017 when hours surveyor costs are expected to be £94.

Clearly no data exists on stand alone Convention inspections as none have ever been carried out. However, according to MCA surveyors, a typical fishing vessel safety inspection for the various length categories of vessel takes the following times, which include surveyor travel time.

Table 12

Length of vessel	Average time in hours for existing survey/ inspection
Vessels of 24 metres and over *	9.3
Vessels of 15 metres and over but less than 24 metres	13.9
Vessels of less than 15 metres	6.4

* Average times for 45m and over vessels has not been identified, so all have been grouped in the 24 and over category

It may be worth noting that the average time taken for 24 metres and over vessels is actually lower than that for the smaller 15-24 metres vessels, which may at first glance seem strange, as one would think it would take longer to inspect a larger vessel. However, the reason for this is that the larger vessels have a generally higher level of compliance. Crew, especially the Skipper, tends to be more highly qualified, and most vessel of this size have been “Classed”, which means they have been inspected by a non-governmental Classification Society (e.g., Lloyds Register of Shipping, Bureau Veritas) which checks the construction and operation of the vessels meets their standards. Vessels of less than 24 metres will not have undergone this scrutiny.

In order to establish initial costs, the total population of vessels in each category is multiplied by 60% or 50% as appropriate, and then multiplied by the average hours for survey/ inspection. This is then multiplied by £94 (the expected hourly rate for the business year 2017-18) to give an estimated transition cost. Thereafter is it expected that the vessels in question will combine the Convention inspections with the routine safety survey/ inspections, thus reverting to the additional costs calculated above.

Table 13

Calculation of transition costs For larger numbers, decimals are rounded to the nearest whole number

Length of vessel	Number of vessels	Proportioned of vessels affected	Total vessels affected	Average time in hours for existing survey/ inspection	Total hours	Cost per hour	Total (£)
Vessels of 24 metres and over *	153	50%	77	9.3	711	94	£66,834
Vessels of 15 metres and over but less than 24 metres	496	60%	298	13.9	4137	94	£388,878
Vessels of less than 15 metres	5068	60%	3041	6.4	19461	94	£1,829,334
Overall Total							£2,285,046

* Average times for 45m and over vessels has not been identified, so all have been grouped in the 24 and over category

Familiarisation costs

The MCA will publish information about the proposed changes. The MCA has consulted/discussed with social partners (industry and fisher representatives) through Tri-partite Working Group meetings, and other contacts outside that group, to gather data for this Impact Assessment, and the implications of the Convention for the UK fishing industry has also been discussed in the Fishing Industry Safety Group (FISG) network of groups which is co-ordinated by the MCA. Indeed, the Work in Fishing Convention itself has been available for public scrutiny since 2007. The International Transport Federation (ITF) has also produced a well presented and easy to understand guide to the Convention¹. The ILO Work in Fishing Convention 2007 – A Guide for Unions - *International Transport Federation (ITF) (www.itfglobal.org) (ISBN: 1-904676-48-0)*

These actions will minimise the costs for fishing vessel owners and fishers of becoming familiar with the new requirements of the proposed Regulations. Half an hour's reading should therefore be sufficient for a fishing vessel owner/ skipper who has not kept up to date with industry developments in this area over the last 8 years or so. It is not possible to meaningfully quantify earnings of a fishing vessel owner/skipper, in that this will depend very much on the size of the catch. It is therefore not possible to cost the monetary value of half an hour to an hour of a fishing vessel owner/skipper's time. But this amount of time per owner/skipper is not, in any case, considered significant.

Question 20 to consultees: Consultees are invited to offer comments on this and if desired estimates of cost in relation to familiarisation with the Convention standards.

The MCA will provide a model Fisher's Work Agreement (FWA) which can be copied populated with names and figures, which will minimise the time and cost for fishing vessel owners who have to produce them.

¹ The ILO Work in Fishing Convention 2007 – A Guide for Unions - *International Transport Federation (ITF)* (www.itfglobal.org) (ISBN: 1-904676-48-0)

Overview of costs

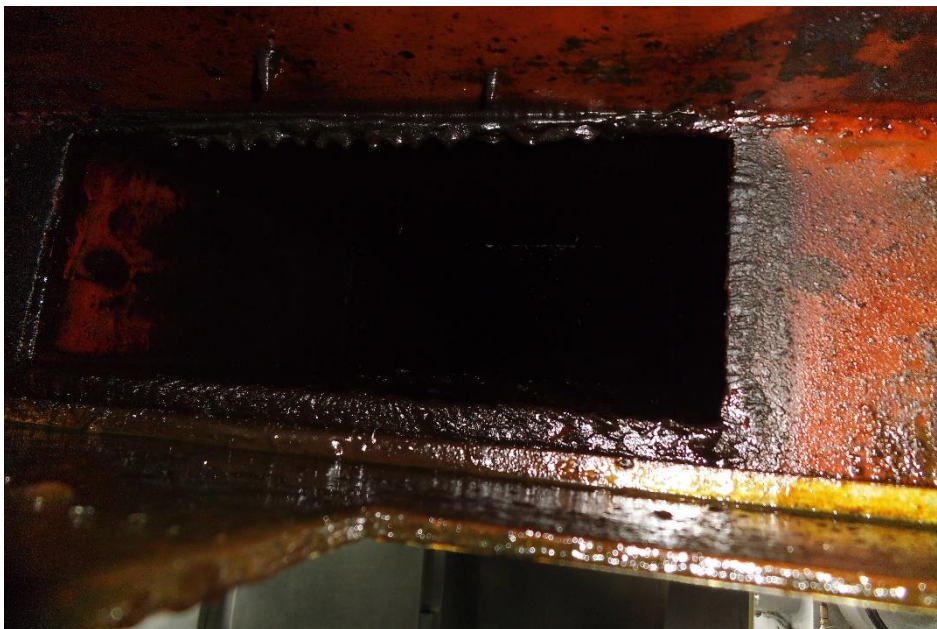
Table 14 **Transition costs**

Source	Estimated initial Cost		
	Low	Estimate (or Midian of Low-High estimates)	High
Total set up cost to fishers for medical examination/certification	£952,000	£1,253,000	£1,554,000
Set-up cost to government for medical examination/certification	£95,813	£95,813	£95,813
Compliance and inspection set-up costs	£2,285,046	£2,285,046	£2,285,046
Total	£3,332,859	£3,633,859	£3,934,859

Table 15 Ongoing annual costs

Source	Estimated Annual Cost		
	Low	Estimate (or mid-point of Low-High estimates)	High
Total ongoing cost to fishers for medical examination/certification	£269,600	£329,800	£390,000
Ongoing cost to government for medical examination/certification	£82,712	£82,712	£82,712
Compliance and Enforcement costs	£255,342	£338,951	£422,560
Total	£607,654	£751,463	£895,272

Benefits of proposed legislation (Option 1)



Grease is the word – a galley extractor in an unhygienic state

The main benefits of the proposed legislation are:

- a) improved living and working conditions for fishers;
- b) it enables the UK, acting as a port State, to inspect foreign fishing vessels visiting the UK if they are registered in a non-ratifying state or if evidence of non-compliance with the Convention is noticed. This is advantageous for UK business because it means that

action can be taken against foreign registered vessels trading in the UK which seek to gain competitive advantage by cutting corners on safety, and fisher living and working conditions.

Maintaining the competitiveness of the UK's commercial fishing fleet by enabling the UK to issue its fishing vessels with certification of compliance with the Convention, enabling them to be part of Responsible Fishing Schemes, which are expected to be a pre-requisite to doing business with most or all buyers, and, for those vessels which visit foreign ports, eliminating in-depth inspections by (foreign) port States unless they are manifestly non-compliant.

If a European Union Directive implementing the SPA is passed, transposing the SPA, thus reducing the risk of infraction proceedings.

It has not been possible to monetise the benefits of this option. The benefits are largely improved living and working conditions which are difficult to measure and for which we have limited evidence. Calculating the competitiveness benefits would require a large resource intensive piece of analysis which would not be proportionate in this case.

Question 21 to consultees: Consultees are invited to provide evidence on the benefits of this option.

Medical Certification

Depending on the detail of the arrangements put in place, extension of the existing medical certification schemes to fishers, albeit in adapted form, will increase transferability of medical certification for fishers wishing to transfer from fishing vessels to the merchant fleet, where certification is already required. This is seen to be especially useful as the fishing industry has been in decline of a number of years, due to depleted fish stocks and tighter quota regulation emanating from the European Union. Some fishers have to seek alternative work during times when fishing is slow.

Manning and Hours of Work

This has the potential to enhance safety (a crucial aspect of this high-risk occupation) by reducing fatigue, which is a known factor in maritime accidents. On a risk-basis, therefore, regardless of the frequency at which a risk becomes a reality, the potential severity of such an occurrence is enormous, as it could involve loss of life and/or limbs.

6. Rationale and evidence that justify the level of analysis in this IA

The Work in Fishing Convention was developed on a tripartite basis and is strongly supported by UK fishing vessel owner and fisher representative organisations, which also support the prompt ratification of the Convention. Discussions on the proposals for implementing the Convention provisions tripartite group have been uncontroversial, with all parties agreeing that they reflect good practice. Further information will be invited at public consultation.

The complex nature of the Convention, and the fact there are a large variety of fishing vessels sizes affected, mean that where costs are significant, the deep level of detail included in this IA is justified. However, where costs are not significant, or where reliable data is not available, the magnitude of the implications of non-ratification of the Convention (albeit that these may not be quantifiable) mean that efforts to identify very small cost implications and/or achieve spurious accuracy, would not be in line with the government policy and IA Guidance which require a proportionate approach in order to make prudent use of taxpayer resources.

7. Risks and assumptions

The main risks of non-ratification are:

- a) those UK registered fishing vessels that call at foreign ports may be delayed due to an in-depth Work in Fishing Convention inspection resulting from the UK being unable to issue certification of compliance with the Convention;
- b) it is expected that responsible fishing schemes will restrict their membership to fishing vessels registered in Work in Fishing Convention ratifying countries, and that entities further down the supply chain that purchase fish products will refuse to trade with vessels that are not members of such a scheme. Failure by the UK to ratify could therefore threaten the profitability and even viability of UK registered fishing vessels by rendering them ineligible for such schemes.
- c) the UK would be unable to enforce Convention standards on any foreign fishing vessels calling at UK ports.
- d) reputational damage to the UK could result from non-ratification. The UK was involved with the development of the Convention and non-ratification could indicate a failure by the UK to “follow through” on its words, intentions and commitment to decent work for fishers;

The main assumptions made are that:

- a) the ratifications of the Convention will continue, resulting in a significant number of global ratifications by coastal flag states with fishing fleets;

The timing of UK legislation coming into force is intended to coincide with the Convention coming into force internationally. However, the risk associated with this is that there is a risk of losing momentum.

² Social Partners' Agreements on the Maritime Labour Convention, 2006 (MLC) (Directive 2009/13/EC) and the Inland Waterways Hours of Work and Rest (Proposal 2014/0212) <http://www.montesquieu-institute.eu/9353000/1/j9vvj72dlowuskug/vjpe7my47qzg>

³ One of the EU's 7 “Flagship initiatives” is “Agenda for new skills and jobs”:
<http://ec.europa.eu/social/main.jsp?langId=en&catId=958>

⁴ President of the European Commission's letter of 15 October 2014 to new Transport Commissioner, Violeta Bulc:
http://ec.europa.eu/about/juncker-commission/docs/bulc_en.pdf

8. Reducing Regulation Policy

Direct costs and benefits to business calculations (following OITO methodology)

The Convention, being an International Instrument, is outside the scope of the One in Two Out (OITO) methodology. The EU Directive enshrining the SPA is also outside the scope of OITO.

The UK Social Partners have requested consultation on the non mandatory option within Annex III of the Convention of extending the obligations in relation to noise and vibration, heating, air conditioning and lighting to (non-accommodation) enclosed working spaces and storage compartments. However this is already covered in the UK by existing regulation;

- SI 2007/3077 The Merchant Shipping and Fishing Vessels (Control of vibration at Work Regulations 2007 and
- SI 2007/3075 The Merchant Shipping and Fishing Vessels (Control of noise at Work) Regulations 2007

There would be a cost of survey and certification for >24 metre fishing vessel owners. However, this would be mitigated by combining the surveyor visit at the 4 year point to carry out the International Fishing Vessel Certificate survey, and the Work in Fishing Convention inspection, at the same time.

Copy out

In preparing the regulations, Government policy on “copy out” has been applied as a means of transposing international legal requirements wherever possible. However, the Convention was not always drafted in a manner that facilitates this approach, and further elaboration is required in some cases. Particular difficulties are:

- requirements that are set by reference to existing “national laws, regulations and other measures”; and
- provisions that require the Member to determine a particular standard in consultation with fishing vessel owner and fisher representative organisations.

In addition, where existing UK legislation is considered to meet Convention standards, changes to adopt the language of the Convention have not always been made to avoid costs to business from dealing with unnecessary changes.

Alternatives to regulation

The new requirements would not be enforceable, and will not be considered by either the ILO or the EU to have been transposed, without legislation.

Review clauses

The proposed Regulations include a clause that requires a Ministerial review five years after they are made, and every five years thereafter, in line with the “review policy” on introducing international obligations.

The basis of this review will be the “Article 22 report” required by the International Labour Organisation (ILO). Parties to the ILO Work in Fishing Convention, 2007 (C188) will be required to submit a report to the ILO, under Article 22 of the ILO Constitution, providing evidence of effective implementation of the Convention. Preparing for this review will enable the UK to establish the effectiveness of the policy (enforcement action taken) and identify any necessary amendments to UK legislation or to the Convention.

The review will examine UK inspection reports and any enforcement action taken under the regulations, and the port state control record of UK fishing vessels in non-UK ports. In addition, complaints from seafarers on UK fishing vessels to the UK as a flag state, and from fishers in non-UK ships in UK ports, and the results of MCA investigations will be analysed.

A continuously reducing number of serious breaches and deficiencies in UK Work in Fishing Convention inspections and Port State inspections, and complaints to MCA would demonstrate that the regulations were improving the standards on fishing vessels.

Successful resolution of complaints would also demonstrate that the regulations were having a positive impact.

9. Specific Impact Tests

Equalities Assessment

The proposed Regulations would be applicable to all seafarers working on UK commercial fishing vessels to which the Regulations apply, irrespective of their age, ethnic origin, gender, nationality, race, sexual orientation or disability. The ILO Work in Fishing Convention, 2007 (C188) is based on the fundamental rights and principles of workers, and in particular notes the pre-amble of the Convention notes the ILO Declaration of Fundamental Principles and Rights at Work, 1998, and takes into consideration:

- (a) freedom of association and the effective recognition of the right to collective bargaining;
- (b) the elimination of all forms of forced or compulsory labour;
- (c) the effective abolition of child labour; and
- (d) the elimination of discrimination in respect of employment and occupation.

Competition Assessment

The proposed Regulations would bring existing UK legislation into line with the requirements of the ILO Work in Fishing Convention (C188). The Convention aims to provide a benchmark for the decent employment of fishers globally, and it is expected that a significant number of coastal states with fishing industries will ratify the Convention.

By introducing a set of minimum standards that apply internationally, the Convention should promote a more level competitive playing field internationally and reduce the ability of fishing vessel operators to gain a competitive advantage through poor treatment of fishers.

It is likely that this would reduce the competitiveness of fishing vessel operators that are currently less compliant with the requirements of the Convention and improve the competitiveness of fishing vessel operators that are currently more compliant with the requirement of the Convention. However, the magnitude of this impact is uncertain.

Following the Convention coming into force internationally, it is possible that fishing vessels that are not certificated by, and registered in, (ratifying) flag State will be at a competitive disadvantage as they will not be eligible for any Responsible Fishing Schemes which insist on such certification for membership.

At public consultation, consultees are invited to offer any additional evidence on the potential for the proposed Regulations to impact on competition.

Small Firms Impact Test

Data is not held on the size and number of businesses affected. However, the nature of the fishing industry is that many small to medium vessels will be businesses on their own, and the majority of business in the industry are micro or <20 firms. So essentially this is a Convention (and Social Partners' Agreement) that was written for small businesses.

The Convention, and Social Partner's Agreement (SPA) therefore apply generally to small businesses, although the crew accommodation requirements for new vessels (which is one of the potentially most costly parts of the Convention) for the most part, do not.

Also, because the Convention and SPA focus on personnel, costs will be lower for small firms, as they will have proportionately smaller numbers of fishers. Social Partners (representatives of both vessel owners and fishers) were involved in the drafting of the Convention. Social Partners alone (ie., without governments) negotiated the SPA. Also, small fishers are represented on the UK tripartite Working Group on implementation, which discusses how the Convention and SPA are implemented in the UK.

The Convention and SPA are pivotal to the standards of living and working conditions for fishers. Many aspects of this are safety-related, in this most dangerous of industries. The Convention and SPA also modernise the relationship between the fishing vessel owner and others on the vessel.

Ratification of the Convention will require those aspects of the Convention that do apply to small businesses to be implemented. Failure of the UK to ratify the Convention has the potential to damage small businesses as much as the larger ones, because if a Responsible Fishing Scheme requires evidence of compliance with the Convention, this is not expected to distinguish between large and small businesses, and the Secretary of State can only issue certificates of compliance which are internationally recognised if the UK has ratified the Convention.

Health Impact Assessment

The objective of the Convention is to provide all fishers with decent employment by setting minimum global standards for living and working conditions, providing an effective regime to ensure that those standards are enforced, and a framework for continuous improvement.

Human Rights

The proposed Regulations would implement provisions of the International Labour Organization's Work in Fishing Convention, 2007 (C188). The Convention pre-ambles notes the ILO Declaration of Fundamental Principles and Rights at Work, 1998, and also takes into consideration:

The ILO Forced Labour convention 1930 (No. 29)

The Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87)

The Right to Organise and Collective Bargaining Convention, 1949 (No. 98)

The Equal Remuneration Convention 1951 (No. 100)

The Abolition of Forced Labour Convention, 1957 (No. 105)

The Discrimination (Employment and Occupation) Convention, 1958 (No. 111)

The Minimum Age Convention, 1973 (No. 138)

The Worst Forms of Child Labour Convention, 1999 (No.182)

and notes:

The Occupational Safety and Health Convention (No. 155) and Recommendation (No. 164), 1981

The Occupational Health Services Convention (No. 161) and Recommendation (No. 171), 1985

The Social Security (Minimum Standards) Convention, 1952 (No. 102)

There are no Human Rights compatibility issues arising from these Regulations.

Justice System

The main enforcement mechanism for these proposed Regulations would be through the inspection and certification of UK ships under the Convention by MCA surveyors. There would however also be offences and penalties laid down in the proposed Regulations. These would be in line with the penalties in place for corresponding offences in existing Regulations, where these exist. **[The MCA has reviewed these offences and penalties with the Ministry of Justice to ensure a consistent approach in all sets of regulations implementing the Convention. [When this has been done].** However, most of the requirements of the proposed Regulations are new, and offences and penalties have also been discussed with the Ministry of Justice.

10. Summary and preferred Option

Introducing the proposed Regulations (Option 1) is the only policy option which satisfactorily achieves the policy objectives outlined above and is therefore the preferred option.

11. Review Section?

The proposed Regulations include a clause which requires a Ministerial review five years after they are made, and every five years thereafter in line with the “review policy” on introducing international obligations. The review is statutory.

The basis of this review will be the “Article 22 report” required by the International Labour Organisation (ILO). Parties to this Convention will be required to submit a report to the ILO, under Article 22 of the ILO Constitution, providing evidence of effective implementation of the Convention. Preparing for this review will enable the UK to establish the effectiveness of the policy (enforcement action taken) and identify any necessary amendments to UK legislation or to the Convention.

The review will examine UK Work in Fishing Convention inspection reports and any enforcement action taken under the regulations, and the port state control record of UK fishing vessels in non-UK ports. In addition, complaints from fishers on UK fishing vessels to the UK as a flag state, and from fishers in non-UK fishing vessels in UK ports, and the results of MCA investigations will be analysed.

A continuously reducing number of serious breaches and deficiencies in UK Work in Fishing Convention inspections and Port State inspections, and complaints to MCA would demonstrate that the regulations were improving the standards on ships.

Successful resolution of complaints would also demonstrate that the Regulations were having a positive impact.

Post Implementation Review (PIR) Plan

1. **Review status:** Please classify with an 'x' and provide any explanations below.

<input type="checkbox"/>	Sunset clause	<input checked="" type="checkbox"/>	Other review clause	<input type="checkbox"/>	Political commitment	<input type="checkbox"/>	Other reason	<input type="checkbox"/>	No plan to review
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Standard 5 year review without sunset clause in accordance with government policy on Statutory Instruments transposing provisions of International and European origin.

2. **Expected review date** (month and year, xx/xx):

1	1	/	2	1
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Rationale for PIR approach:

Describe the rationale for the evidence that will be sought and the level of resources that will be used to collect it.

- Will the level of evidence and resourcing be low, medium or high? (See Guidance for Conducting PIRs)

Low.

- What forms of monitoring data will be collected?

Numbers of non-compliances, complaints and actuals costs where available.

- What evaluation approaches will be used? (e.g. impact, process, economic)

Process

- How will stakeholder views be collected? (e.g. feedback mechanisms, consultations, research)

Enforcement data, feedback from individuals, feedback from ILO.