



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

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

This notice should be read with the Merchant Shipping (Work in Fishing Convention) Regulations 2018

Summary

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

1. Introduction

- 1.1 Every fisherman (regardless of their employment status) working on a fishing vessel must have a transparent and enforceable statement of their living and working conditions on board, referred to as a "fisherman's work agreement" (FWA).



1.2 For employed fishermen on UK fishing vessels, FWAs replace the existing requirement for crew agreements (under the Merchant Shipping (Crew Agreements, Lists of crew and Discharge of Seamen) (Fishing Vessels) Regulations 1972. Instead of a common agreement that all the crew members sign, each fisherman must have an individual copy that they and the fishing vessel owner (or employer or another party) has signed.

1.3 FWAs are a new requirement for self-employed share fishermen.

2. Application

2.1 The Regulations implementing the requirement for FWAs apply to all UK fishing vessels regardless of size and wherever they are in the world, when engaged in commercial fishing operations (as opposed to undertaking another role such as guardship duties, when the requirements of the Maritime Labour Convention apply). They also apply to a non-UK fishing vessel when it is in UK waters when engaged in commercial fishing operations.

2.2 The requirement to have a FWA does NOT apply to a fishing vessel owner who is single-handedly operating the vessel.

3. Minimum requirements for a FWA

3.1 A FWA must be comprehensible to the fisherman and consistent with the provisions of ILO 188.

3.2 A FWA must contain certain minimum pieces of information. These are:

For both employed and self -employed (share) fishermen

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



- the fisherman's entitlement to repatriation.

Plus, for employed fishermen

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

Plus for self-employed share fishermen

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

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

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

4. Model agreements

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

5. Responsibilities of the fishing vessel owner

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

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

5.2.1 the fisherman has had sufficient opportunity to review and take advice on the terms of and conditions of the agreement;

5.2.2 the fisherman has received an explanation of their rights and responsibilities under the agreement; and

5.2.3 the fisherman is entering into the agreement freely.

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



- 5.4 A copy of the FWA must also be held on board the fishing vessel, and be available for the fisherman to view on request.
- 5.5 If the FWA is not in English, an English translation of the FWA must also be available on board.

6. Additional provisions required by UK employment legislation

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

- 6.1.1 Hours of work

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

- 6.1.2 Disciplinary and grievance procedures

- There must be a disciplinary and grievance procedure that employees can refer to, if either their employer takes disciplinary procedures against them or if they have any concerns about their employment. ACAS provides guidance. <http://www.acas.org.uk/index.aspx?articleid=2174> The FWA must include information about how to access this procedure.

- 6.1.3 Pension benefits

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

7. Fishermen's complaints

- 7.1 In the event of any dispute regarding the application of a FWA, or the terms and conditions contained therein, in the first instance the fisherman should take this up with their management or the fishing vessel owner under the applicable Disciplinary and Grievance procedure.
- 7.2 If the on-board procedure fails to resolve a complaint, the fisherman may raise it with an authorised officer in the port where the fishing vessel is moored or anchored. Where the fishing vessel is in a port in the UK the complaint should be reported to the nearest MCA Marine Office.
- 7.3 Should these two steps fail to resolve the complaint or, for any other reason, action in the courts becomes necessary, it should be noted that whilst UK ships are subject to UK law, powers to determine a matter are not restricted to the UK courts. A fisherman or fishing vessel owner may undertake proceedings in a court in another country, although such proceedings should normally take account of relevant UK law.
- 7.4 For additional information about making complaints refer to MGN 589 (F)



More Information

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

Tel : +44 (0) 203 817 2505
e-mail: workinfishing.convention@mcga.gov.uk

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

General Enquiries: infoline@mcga.gov.uk

File Ref: MC 18/3/204

Published: November 2018
Please note that all addresses and
telephone numbers are correct at time of publishing

© Crown Copyright 2018

Safer Lives, Safer Ships, Cleaner Seas



MODEL FORMATS FOR A FISHERMAN’S WORK AGREEMENT

(1) EMPLOYED FISHERMEN

This Agreement is between:-

(1).....

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

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

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

AND

(2)

.....

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

OF.....

.....

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

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

***3. I / We**

(insert fishing vessel owner’s name)

OF

.....

(insert fishing vessel owner’s full address)*

* Delete if not applicable

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

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

Date when this Agreement is entered into



Place of Work

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

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

Capacity in which Fisherman is to be employed

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

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

.....

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

.....

Wages (see Note 7)

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

Means of payment of Wages

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

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

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

(a) Definite Period Agreement

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

OR

(b) Voyage Agreement

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



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

OR

(c) Indefinite Agreement

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

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

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

(see Notes 9 and 10)

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

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

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

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

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

Paid Leave *(see Note 11)*

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

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



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

Repatriation (see Note 12)

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

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

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

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

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

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

ADDITIONAL PARTICULARS REQUIRED TO BE INCLUDED BY UNITED KINGDOM LAW

Hours of Work (see Note 14)

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

Grievance and Disciplinary Procedures

(a) Grievances

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

(b) Disciplinary Rules and Procedure

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

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

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



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

OR

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

OR

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

WELFARE CLAUSE

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

ADDITIONAL PROVISIONS INCLUDED BY FISHING VESSEL OWNER

(See Note 16)

.....

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

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

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

Signature of Fisherman

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

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

*Signature of Employer or Employer’s representative

(State position held)



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

This Agreement is between:-

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

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

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

AND

(2)

.....

.....

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

OF.....

.....

.....

(insert full address of fishing vessel)

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

Date when this Agreement is entered into

Place of Work

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

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

Capacity in which Fisherman is to be engaged

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

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

.....

.....



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

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

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

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

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

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

(a) Definite Period Agreement

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

OR

(b) Voyage Agreement

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

OR

(c) Indefinite Agreement

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

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

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

(see Notes 9 and 10)

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



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

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

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

Repatriation (see Note 12)

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

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

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

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

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

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

Grievance Procedures



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

WELFARE CLAUSE

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

ADDITIONAL PROVISIONS INCLUDED BY FISHING VESSEL OWNER

(See Note 16)

.....

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

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

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

Signature of Fisherman

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

.....

position held)

(State

