

Title: Eligibility for British Seamen’s Card - Fishers		De Minimis Assessment (DMA)	
Date: 29/06/2022			
DMA No: DfTDMA252		Stage: Consultation	
Lead department or agency: Maritime and Coastguard Agency		Source of intervention: International	
Other departments or agencies: Department for Transport		Type of measure: Secondary	
Summary: Rationale and Options		Contact for enquiries: mlc@mcga.gov.uk.	
		-£147,052	£1,377

Rationale for intervention and intended outcomes

The Maritime and Coastguard Agency issues seafarer identity documents (SIDs) known in the UK as the British Seaman’s Card (BSC) in accordance with the Merchant Shipping (Seamen’s Documents) Regulations 1987 (“the 1987 Regulations”), and so, in order to change the eligibility criteria, government intervention is required to amend the Regulations.

There is a need to extend the eligibility for BSCs to fishers, to ensure UK fishers can secure their entitlements as seafarers under international legislation/agreements when working outside the UK. These entitlements include access to medical care, shore leave and the right to transit to join and leave ships.

Describe the policy options considered

Do nothing: Leave the BSC system without fisher inclusion, and don’t take steps to enable fishers to access their entitlements. This option will not achieve the policy objective.

Option 1: Take a non-regulatory route and try to enable fishers to access their entitlement via diplomatic routes. This has not been successful in the past and is therefore not taken forward.

Option 2 (preferred option): To amend the 1987 Regulations to extend eligibility to fishers. We believe this could be achieved within one year, as it is not controversial and requires only a simple amendment to the Statutory Instrument (SI). The priority for this measure has increased because the fishing industry has provided new information regarding the number of fishers affected – explained in the supporting evidence.

Rationale for DMA rating

This measure is not controversial. The equivalent annual net direct cost to business is £1,377, significantly below the £5m threshold for a De Minimis assessment. As the legislation is permissive, allowing fishers to apply for a BSC but not mandating that they apply for it, any substantive costs will be taken on only if agents expect the benefits to outweigh those costs. No disproportionate impact on small business is expected.

Will the policy be reviewed? No		If applicable, set review date:		
Are these organisations in scope?	Micro Yes	Small Yes	Medium Yes	Large Yes

Senior Policy Sign-off:	✓	Date:	30/06/2022
Peer Review Sign-off:	✓	Date:	18/05/2022
Better Regulation Unit Sign-off:	✓	Date:	29/06/2022

1. Policy Rationale

Policy background

- 1.1 The UK has ratified ILO (International Labour Organisation) Convention No.108 on Seafarer Identity Documents (ILO 108), which provides for internationally recognised seafarer identity documents (SIDs) to facilitate seafarers transiting other countries to join and leave ships. ILO 108 is applicable to “every seafarer who is engaged in any capacity on board a vessel” and most countries have extended its application to fishers.
- 1.2 The Merchant Shipping (Seamen’s Documents) Regulations 1987 as amended (“the 1987 Regulations”) implement ILO 108 for the UK. The Regulations make work on a fishing vessel ineligible for issue of a British Seaman’s Card (BSC). It is not now clear why that decision was made.
- 1.3 Part I of the 1987 Regulations implement the International Labour Organization Convention on Seafarers’ Identity Documents, 1958 (No. 108). They permit the issue to British seafarers of a BSC which identifies them as a bona fide British seafarer. Seafarers have certain rights in relation to transit and repatriation through third countries and are also entitled to shore leave and access to medical care ashore.
- 1.4 To be eligible for a BSC, the seafarer must be a British citizen, British Dependent Territories citizen or British Overseas Territories citizen, a British protected person or a British subject and must be employed on a ship. However, employment on a fishing vessel does not qualify.
- 1.5 ILO 108 has been updated by ILO Convention 185 on Seafarer Identity Documents (amended). Initially the UK had reservations about the technical standards required for SIDs but the technical annexes to the Convention were amended in 2016 to the UK’s satisfaction to comply with International Civil Aviation Organisation (ICAO) 9303 standards. Subject to the necessary cross-Government clearances and a technical project to deliver SIDs to the appropriate standard, the Maritime and Coastguard Agency (MCA) hopes to promote ratification of ILO 185. However, this will take around 2 years. An interim solution is therefore needed to support the fishing industry in the meantime.

Problem under consideration

- 1.6 Since the UK left the EU on 31 December 2020, free movement within the EU has ended. In addition, during the COVID-19 pandemic, many countries imposed border restrictions to prevent the spread of infection. Seafarers, as designated key workers, are in many countries exempt from those restrictions. Fishers on UK vessels do not have seafarer identity documentation to demonstrate that they are bona fide seafarers in accordance with ILO 108. Border control authorities in some countries are therefore refusing them access ashore for transit, for essential shopping and for their health and wellbeing. The MCA received reports of this happening in three countries (Norway, Denmark, France) last year, but the concern is that there is no international requirement for countries to give fishers the entitlements of seafarers if they cannot provide evidence that they are seafarers for the purposes of ILO 108 and other relevant legislation.
- 1.7 In UK legislation authorising exemptions from travel restrictions for key workers, fishers are included as “seafarers”. While recognition as a seafarer in the UK for these purposes does not rely on possession of a BSC, other border control authorities require an internationally recognised document. Such a document can only be issued by government.

Rationale for intervention

- 1.8 The policy objective is to secure the right of fishers, as bona fide seafarers, to free transit of third countries to join and leave ships and for the shore leave required for their wellbeing. We therefore propose to amend the 1987 Regulations so that work on a fishing vessel makes the applicant eligible for issue of a BSC.
- 1.9 The problem has only become evident in the last 15 to 18 months, as fishers have found themselves treated differently at the border of EU member states than other seafarers. While diplomatic efforts have been made to engage with the relevant governments and agree access for fishers as “key workers”, this has had limited success and is at best a temporary solution as a change in policy in the host state could revoke any concessions agreed.

- 1.10 Only by issuing fishers with an internationally recognised seafarer identity document can the UK government ensure that they receive their entitlements in all countries under the Conventions. This requires amendment of the 1987 Regulations.
- 1.11 This is a government failure, where failure to secure fishers with the documents to access their entitlements in some countries would result in lost revenue to fishing companies through being unable to land their catch due to either restrictions or delays at caused by diversions at sea.

Policy objective

- 1.12 The policy objective is to enable the MCA to issue BSCs to eligible fishers, and in turn allow them to access resources such as shore leave or medical attention.
- 1.13 The BSC issued under the 1987 Regulations is compliant with ILO 108 which ensures that it is widely accepted internationally as a seafarer identity document. ILO 108 has been superseded by the ILO Convention on seafarer identity documents (Amended) – Convention no. 185. (ILO 185). This modernises the security standard of the document to be compliant with the ICAO 9303 standard (equivalent to the standard of a passport).
- 1.14 Thirty-eight countries have already ratified ILO 185 and thirty-six have adopted the 2016 amendments (introducing the ICAO 9303 standard) although a limited number of these so far are issuing ICAO 9303-compliant seafarer identity documents. Over time however, some countries may withdraw recognition of ILO 108-compliant SIDs, such as the UK BSC. The UK is therefore working towards implementation of ILO 185 and the replacements of the current BSC with a SID which meets the standards of ILO 185 and ICAO 9303. The current measure is an interim solution which can be brought in more quickly to assist the fishing industry.

Options considered

Option 0: Do nothing

- 1.15 In this scenario, the government would not make changes to the eligibility for the BSC and not solve the issue via alternative routes, leaving some fishers unable to access their rights.

Option 1: Non-regulatory solution by using diplomatic routes

- 1.16 Given the time required to revise legislation, diplomatic efforts have been made to engage with the relevant governments and agree access for fishers as “key workers”. This has had limited success and is at best a temporary solution as a change in policy in the host state could revoke any concessions agreed. It does not therefore achieve the policy objective and has not been further assessed.

Option 2: To amend the 1987 Regulations to extend eligibility to fishers (**preferred option**)

- 1.17 We believe this could be achieved within one year, as it is not controversial and requires only a simple amendment to the SI. The priority for this measure has increased because the fishing industry has provided new information regarding the number of fishermen affected – explained in the supporting evidence. **Option 2 is the preferred option** because it achieves the policy objective in a reasonable timescale.

2. Rationale for De Minimis Rating

- 2.1 This measure is not controversial, novel or contentious. The impacts are expected to be very low: the equivalent annual net direct cost to business is estimated at £1.377, very far below the £5m de minimis threshold. because the measures are permissive, there is expected to be no worse than zero net cost, and the analysis below shows that the impact will be very low even in the worst-case scenario. There are not expected to be any disproportionate costs to small business.

3. Costs and Benefits

Option 0 (do nothing)

- 3.1 There could be no cost to business as a result of the “do nothing” scenario, as seafarer rights are in other regulation. This option would maintain the status quo and provides a “counterfactual” scenario against which the other options are assessed.
- 3.2 There are cases where fishers have not been allowed to leave their vessels at overseas ports, restricting their access to medical services, as well as causing stress and negatively impacting fishers’ mental health. In the cases of healthcare, a vessel would have to be diverted at cost to the fishing companies. In addition, there could be a risk that fishers will not be allowed to disembark to land their catch, which results in additional time spent at sea and increased risk that the catch will spoil and increased fuel costs. We have not monetised this as we don’t know the risk of denied disembarkation, but these situations could be costly to fishing companies. For example, the Scottish Fishing Federation advised that 24 businesses, comprising 300 fishermen, would be unable to land their catch in Norway from January 2022.

Option 1 (non-regulatory measure, use diplomatic route)

- 3.3 This option has no cost to business. If a diplomatic route did prove successful, the benefits would be the reduced risk of diversions due, which increase the chance of fishers being unable to land catch due to it spoiling.
- 3.4 However, previous attempts have been unsuccessful and therefore it is not likely to succeed in meeting the policy objectives, and the issue for fishers will remain unchecked.

Option 2 (preferred option, amendment of the 1987 Regulations)

Costs

- 3.5 The analysis undertaken is Green Book¹ compliant, using an annual discount rate of 3.5% and GDP deflators as given in the Transport Appraisal Guide (TAG)². A standard ten-year appraisal period is used. In accordance with TAG, a non-wage cost uplift of 26.5% has been applied to account for overheads³. It is assumed that nominal wages increase by 4.3%⁴ per year.

Fishers and fishing companies impacted

- 3.6 The Marine Management Organisation estimated that there were 220 vessels with length over 24 metres fishing with UK licences in 2020⁵. The MCA estimated that 80%⁶ of these (176 vessels) occasionally operate in non-UK ports. The estimated average number of crew on these vessels is 9 fishers⁷. The number of fishers affected (i.e. for whom a BSC would be an advantage) is therefore estimated to be 1,584 in 2020. The Marine Management Organisation (MMO) fisher statistics estimate a decline of approximately -1% per annum for the number of fishers between 2011 and 2020.
- 3.7 MCA statistics for the Standards of Training, Certification, and Watchkeeping (STCW) requirement of Seafish Health and Safety training (required training for all fishers entering the labour market) showed that on average, around 650 fishers undertook the training each year between 2015 and 2019. This figure reflects all fishers entering the market, not just fishers in scope for this policy.

¹Green Book, https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/685903/The_Green_Book.pdf

² TAG Data Book, Annual Parameters, column D:D <https://www.gov.uk/guidance/transport-analysis-guidance-tag#webtag-data-book>

³ https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/1007447/tag-unit-a-4-1.pdf, p5, section 2.2.4

⁴ http://obr.uk/docs/dlm_uploads/OBR-Fiscal-sustainability-report.pdf, p44, Table 3.5

⁵ Marine Management Organisation, UK Sea Fisheries Statistics 2020, Section 1 Fleet tables, Table 1_3_UK, published September 2021 <https://www.gov.uk/government/statistics/uk-sea-fisheries-annual-statistics-report-2020>

⁶ MCA estimate

⁷ Marine Management Organisation, UK Sea Fisheries Statistics 2020. p11, published September 2021 <https://www.gov.uk/government/statistics/uk-sea-fisheries-annual-statistics-report-2020>

- 3.8 Out of all fishers, 14%⁸ are estimated to be in scope for this policy (based on vessels over 24m). Therefore, we estimate 91 new fishers entering the market each year and applying for a BSC.
- 3.9 We assume all existing fishers in scope will apply for a BSC within a few years of implementation (first year assumed to be 2023). Discussions with industry has led to the assumption that 60% of the fishers would apply for a BSC in the first year that the legislation comes into force, with the proportion of the existing stock of fishers who apply for a BSC gradually increasing to 100% after four years.
- 3.10 We also assume that, once the BSC has become available, all new joiners apply for one at the time that they enter the sector. We have made this distinction on the assumption that new fishers will apply alongside their other required paperwork whereas existing fishers may feel that they don't need it until they see benefits from other fishers. We assume by 2026, all existing fishers in scope of the policy would have applied for a BSC (so all fishers applying for BSC after that date will be new entrants into the market).

Table 1 proportion of total seafarers who have the BSC, cumulative

Year	2023	2024	2025	2026
Proportion of fishers taking up the card	60%	80%	90%	100%

Application costs: fees

- 3.11 This is an indirect cost, as there is no compulsion for the firms to obtain a BSC, it is an entitlement and not a requirement.
- 3.12 A fee is charged for issue of a BSC. This is set for cost recovery. The fee for issue of a BSC is currently £55⁹ (with option for £105 for premium service), along with a fee of £9 for a set of passport photos. The analysis assumes a total fee of £64 per application (standard fee plus photos cost), as the premium service is optional. It is assumed that fishing vessel owners will pay the fees.
- 3.13 The increased application will increase workload for the Registry of Shipping and Seamen (RSS), particularly in the first year of the policy when the number of applications will be highest. However, no additional costs are expected for the MCA, as the fee is set for cost recovery.

Application costs: time

- 3.14 This is an indirect cost, as there is no compulsion for the firms to obtain a BSC, it is an entitlement and not a requirement.
- 3.15 The BSC form is 11 pages long and requires supporting evidence. The MCA estimate that this will take 1.75 hour of a fisher's time (including filling in the form, obtaining counter-signatories and getting passport photos) and 5 minutes of a fishing company's time. The Annual Survey of Hours and Earnings estimates an hourly wage for a fisher to be median £9.83¹⁰ and hourly wage for a manager in fishing to be median £13.21¹¹, and a 26.5% uplift is applied to account for overhead costs¹². We assume both fishers and managers do this in work time, so all costs will ultimately fall on employers.

Familiarisation costs

- 3.16 This is a direct cost.
- 3.17 All fishers and fishing companies will have to familiarise with the new guidance. As estimated above, that will be 1,584 fishers each spending half an hour familiarising themselves with the legislation. We assume this will be in work time, so the cost will ultimately fall on employers.
- 3.18 For all vessels 15-24m in length, we assume one person from a fishing firm spends a quarter of an hour familiarising themselves with the change. For the vessel category of over 24m, we have assumed one person per vessel from a firm will spend half an hour familiarising themselves with the

⁸ Marine Management Organisation, UK Sea Fisheries Statistics 2020, Section 1 Fleet tables, Table 1_3_UK, published September 2021 <https://www.gov.uk/government/statistics/uk-sea-fisheries-annual-statistics-report-2020>

⁹ <https://www.gov.uk/get-seamans-discharge-book-or-british-seamans-card>

¹⁰ Annual Survey of Hours and Earnings, Provisional 2020 data, Table 14.5a, value for fishing and other elementary agriculture occupations.

¹¹ Ibid, Managers and proprietors in forestry, fishing and related services

¹² TAG unit A4.1 p3, non-wage labour cost uplift,

https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/1007447/tag-unit-a-4-1.pdf

change. We have assumed that for the 15-24m vessels, the familiarisation time will be shorter as they are unlikely to be impacted by this policy and so will read it less thoroughly.

Total costs

3.19 Table 2 lists the costs of the measure, over the ten-year appraisal period. All costs are in 2023 prices, discounted from 2023 (the year impacts begin). Note that all costs are costs to business, as it is assumed that employers and fishers will familiarise and complete applications during working time.

Table 2 total costs of ten-year appraisal period (2023 prices, 2023 present value, discounted)

Application costs: fees	£112,679
Application costs: time (fishers)	£45,247
Application costs: time (businesses)	£2,896
Familiarisation costs (fishers)	£10,395
Familiarisation costs (businesses)	£3,699
TOTAL	£174,916

Benefits

3.20 The potential benefits are the avoidance of the costs which firms may face in the “do nothing” scenario, which may be avoided by the presence of a BSC, such as the increased risk of diversion due to medical needs and being unable to land the catch. Delays as a result of diversion could result in increased risk to seafarers as well as an increased chance that the catch could spoil. Whilst seafarers will still have the same rights, reducing the risk of disruption that could prevent landing the catch or increase the risk of it spoiling will provide a benefit to firms.

3.21 The benefits are not monetised. It is difficult and not proportionate to estimate the value of potential benefits, and the probability of them being realised.

Indirect Costs and Benefits

3.22 Any fishers not applying (or businesses not supporting applications) would maintain the status quo: they will not incur any direct costs, but there is some potential for indirect costs if they become less attractive in the labour market as a result of not holding documentation. Although any effects are unlikely to be very significant, this adds to the incentive to take up the card.

Business Impact Target (BIT) analysis

3.23 Applying for a BSC is optional rather than compulsory, and fishers and fishing businesses are expected to apply only if they view it as a benefit to their operations. Therefore, the regulations are permissive and we expect benefits to be at least equal to the costs. We believe the new BSC will entail benefits greater than the costs incurred, we expect all fishers in scope of the policy will apply for the BSC during the appraisal period. Therefore, the non-monetised benefits will be at least equal to monetised costs, and the measures are likely to create a *no worse than zero net cost*.

3.24 However, to demonstrate the low overall impact, an illustrative net present value (NPV) is provided, calculated from costs only, to show a worst-case scenario (this would represent fishers and firms taking on all the costs but not receiving any of the expected benefits: this is very unlikely, but provides a lower bound on the possible impact of the policy). As above, all costs are costs to business, so both the net present social value and the business net present value are -£174,916 in this worst case (2023 prices, 2023 present value). Converting to BIT output years (2019 prices, 2020 present value), the net present social value and the business net present value are **-£147,052**. This value is low, showing that the measures are low-impact.

3.25 This legislation is permissive, and does not require fishers to obtain a BSC, instead giving them an entitlement to apply if they want to. In line with RPC guidance on permissive analysis¹³, we have removed the substantive costs from the equivalent annual net direct cost to business (EANDCB) as we assume the costs are at least equal to the benefits, otherwise fishers would choose not to get a BSC. Therefore, only familiarisation costs are included in calculation of the EANDCB (as per the RPC guidance, familiarisation costs are treated as sunk costs outside the scope of the no worse

¹³ <https://www.gov.uk/government/publications/rpc-case-histories-permissive-legislation-february-2020>

than zero net cost argument). Note that, as above, all familiarisation costs are included, as it is assumed that businesses will take on the cost to seafarers (i.e. this will be done in work time).

3.26 The EANDCB is **£1,377**. In line with the government's Impact Assessment Calculator¹⁴, this is in 2019 prices, 2020 present value. This is very far below the de minimis threshold of £5m, showing that there is a high degree of certainty that the policy will qualify as de minimis. Multiplying by a standard five-year parliamentary term, the BIT score is £6,883.

4. Risks and unintended consequences

4.1 We have not identified any risks or unintended consequences.

5. Wider impacts

Equalities Impact Assessment

5.1 All public authorities are required by section 149(1) of the Equality Act 2010 to have due regard to the need to eliminate discrimination, harassment, victimisation or other prohibited behaviour, advance equality of opportunity and foster good relations between persons who share a relevant protected characteristic and persons who do not share it.

5.2 The 1987 Regulations and the proposed amendments limit eligibility for a BSC to anyone who is

- a British citizen;
- a British Dependent Territories citizen or British Overseas Territories citizen;
- a British protected person; or
- a British subject,

and is employed on a ship.

5.3 Nationality is not a protected characteristic. Indeed, the underlying purpose of the issue of BSC is to ensure that the issuing authority can vouch for the identity of the holder. Any indirect discrimination (since persons of certain racial groups may be less likely to fall into one of the above categories) is justified to achieve the purposes of the Regulations.

Justice Impact Test

5.4 The proposed amendment makes no changes to offences and penalties. There are no offences in the 1987 Regulations relating to the issue of SIDs. There are offences for:

- failure to produce a BSC when required to do so by an authorised person; and
- failure to surrender a BSC to the Registrar of Shipping and Seamen or a superintendent in certain circumstances.

5.5 In theory, as a result of the proposal, the number of BSCs in circulation will increase. There are no known prosecutions under the above provisions in the last ten years. The MCA is therefore confident that there will be no impact on the judicial system as a result of the proposal.

Small and Micro Business Assessment

5.6 All businesses are in scope of the changes. The fishing industry is made up largely of micro-, small- and medium-sized businesses. We do not expect these Regulations to impact small and micro businesses disproportionately. There is no requirement on fishers to obtain a BSC; those that choose to do so will expect to benefit from holding it when calling at/working non-UK ports. Therefore, there will be a no worse than zero net cost to businesses, including small businesses.

¹⁴ <https://www.gov.uk/government/publications/impact-assessment-calculator--3>

6. Post implementation review

- 6.1 We do not intend to carry out a post implementation review. However, we will monitor the take-up of BSCs by fishers. The MCA is in regular contact with industry representatives and will seek feedback on the acceptance of BSCs by port States.
- 6.2 We expect the 1987 Regulations to be superseded by regulations implementing ILO 185 within 5 years. As a ratifying country, the UK is required by the ILO to report on its implementation of ILO 108. The next report is due in 2023.