

Guidance for Seafood Businesses on how to navigate the **Skilled Worker Visa**

Guide 5:

Legal obligations for employers
in the seafood industry

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Overview of the Guides

There are five guides included in the Skilled Worker Visa Guidance, alongside a glossary which explains the technical terms. We recommend you take the time to read through each of these guides before starting the application process. The five guides are summarised here.

[Follow this link](#) to access the other guides



Guide 1: Introduction to the Skilled Worker Visa - explaining the fundamentals

Guide 1 provides an overview of the sponsorship and recruitment process and explains why it has been structured in this way. It also explains the preparation you should take before you start the application process and the costs involved in sponsoring a person under a Skilled Worker Visa. Make sure you have read and understood the details in Guide 1 before you embark on the sponsorship process.



Guide 2: How to become a sponsor

Guide 2 is a detailed step by step guide through the online application process. It includes screenshots from the application systems and explains how to make a successful application. It also details the information, documents, and systems you will need to have in place before you are ready to submit your application.



Guide 3: How to employ migrant workers under a Skilled Worker Visa

Guide 3 covers the process of sponsoring migrant workers via the Skilled Worker route, once your sponsor license has been approved. This includes important things that both you and your potential employee should know, such as job codes, salary and language requirements, the different types of certificate of sponsorship and how they should be used.



Guide 4: **Your ongoing responsibilities as a sponsor of Skilled Workers**

Visa sponsorship is a long-term commitment, and Guide 4 will help you understand your ongoing responsibilities and how to ensure you are complying with them. These responsibilities include the need to maintain accurate records, to notify the Home Office of any changes, and managing the relationship with your sponsored worker.



Guide 5: **Your wider legal responsibilities**

The final guide includes general information on your wider legal responsibilities as a seafood business engaging migrant workers. UK employment law is likely to apply to any person working in the UK and in territorial waters. These duties will be in addition to your sponsorship duties and if you fail to meet these wider obligations it could impact on your ability to remain a sponsor.



Glossary: **Provides explanations of key technical and legal terms that relate to the Skilled Worker Visa**

The glossary contains definitions of key terms used across the Skilled Worker Visa Guidance – see text in **bold** in each Guide.

Introduction

UK immigration requirements mean that if you wish to employ migrant workers in the seafood industry, either onshore or within 12nm of the shore, you will more than likely need to use a Skilled Worker Visa.

This visa allows for the employment of migrant workers for **certain skilled jobs** in the UK. This includes experienced deckhands on fishing vessels, fish filleters, and seafood processing line operatives, as well as food manufacturing engineers, mechanics, or skippers.

We understand that many seafood businesses will be new to this system and may find it difficult to understand the process involved. This guidance should assist you to:

- Apply to become a sponsor
- Employ overseas workers
- Meet all your responsibilities as a sponsor.

The guidance is specifically tailored to seafood businesses, whether you are a fishing vessel, aquaculture business or a processing company, regardless of where you are based across the UK.

The information contained in these guides is to be used as guidance only. It does not constitute legal advice and if you are unsure about any aspect of the sponsor regime or Skilled Worker Visa requirements you should seek independent legal advice. It is not a substitute for the published official Home Office guidance on the sponsorship regime, or the Immigration Rules. Where possible we have included links to the official guidance.

If you have any questions about this guidance, please email skilledworkervisa@seafish.co.uk

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Part 1: Legal obligations for employers in the seafood industry

A sponsor of Skilled Workers is expected, as part of their sponsor duties, to comply with wider UK legal obligations. Some of these are specified in the official guidance entitled [“Workers and Temporary Workers: guidance for sponsors part 3: sponsor duties and compliance.”](#)

Those duties are listed as follows at C1.48 of the guidance:

“C1.48. You have a duty to comply with wider UK law (other than immigration law). This includes, but is not limited to:

- complying with UK employment law, including, but not limited to, National Minimum Wage, the Working Time Regulations, and (where required) enrolling your employees on a pension scheme
- complying with illegal working and right-to-rent legislation
- holding suitable planning permission, local planning authority consent or any legally required licence registration or approval to run your type/class of business at your trading address (where this is a local authority requirement)
- if you are a food business, being registered with or approved by the relevant food authority
- if you are required to be registered with or inspected or monitored by a statutory body to operate lawfully in the UK (such as a nursing or care home, financial or insurance business, or healthcare provider), ensuring you are registered with the appropriate body
- not engaging in any criminal activity
- not being subject to UK or UN imposed sanctions
- paying VAT or other duty penalties”

The purpose of this guide is to provide a general, high-level summary of the key legal obligations that seafood businesses should be aware of. It is not intended to be exhaustive or complete. We have highlighted the rules on illegal working and the right to rent in Guide 4. This guide does not cover matters related to planning permission, registration with the relevant food authority or regulatory body, or issues relating to tax or VAT.

The legal obligations discussed will commonly apply to a seafood business, whether or not you decide to become a sponsor; it is important therefore that you are aware of them.

Some of these obligations, particularly for the catching sector, may not have arisen for businesses before. This is because UK fishermen are very often share fishermen, which means that they are self-employed. If you decide to sponsor a crew member it is likely that they will be an employee, and so various obligations will arise that did not exist for a share fisherman.

In this guide, when we use the term “onshore” we are referring to jobs within the seafood processing, wholesale and logistics sectors (or any sector which is land based), and “offshore” is intended to refer to jobs in the catching sector.

The law is complex, sometimes different legal instruments apply to the different countries of the UK. The law in Northern Ireland may be different than the law in Scotland, or in England and Wales. In addition, if you are sponsoring workers, some of the broader legal requirements which apply, particularly to sea fishing, do not easily align with the Immigration Rules.

For each of the topics, it is recommended to seek specialist advice on individual circumstances. This guide is intended only to signpost legal requirements which may arise.

Employment status

There are three types of employment status under UK law, namely: (i) employee, (ii) worker, and (iii) self-employed.

- i. An “employee” is an individual engaged under an employment contract.¹ They are required to work regularly and complete a minimum number of hours, as prescribed by the contract. Employees have the highest level of rights under employment law, including rights to Statutory Sick Pay, a minimum notice period, and maternity and paternity pay. They are also entitled to additional employment rights, such as statutory redundancy rights and the right to protection against unfair dismissal, if they have been employed continuously for at least two years (or at least one year in Northern Ireland).
- ii. A “worker” is an individual engaged under a contract for services.² Workers typically do not have to be offered work and, if they are offered work, workers are usually under no obligation to accept it. Workers’ contracts often use terms like ‘casual’ or ‘zero hours’ to describe their roles. Workers have fewer employment law rights than employees.

1 [Government Guidance: Employment status: Employee](#)

2 [Government Guidance: Employment status: Worker](#)

- iii. A “self-employed” individual typically submits invoices for the work they’ve done, are not under direct supervision when working and can usually appoint a suitably qualified substitute to carry out their work. However, there are multiple factors which determine whether an individual is “self-employed”.³

A share fisherman is self-employed and is an individual:

- who works in the fishing industry;
- is not employed under a contract of service;
- is a master or a crew-member of a British fishing vessel manned by more than one person; and
- gets all or part of their pay by sharing the profits or gross earnings of the fishing vessel⁴

UK fishermen are commonly self-employed share fishermen.⁵

Sponsored Skilled Workers will likely be classified as employees because of the relationship that exists with their sponsor, though it is possible in some circumstances for a sponsored Skilled Worker to be regarded as a worker or self-employed.

Determining employment status can be complex, however it is unlikely that a Skilled Worker could be a share fisherman, as the Skilled Worker visa requires a guaranteed level of remuneration to be paid, which does not align with a share fishing arrangement.

In this guide, for simplicity, we use the terms “employee” and “employer” where possible.

Employers’ liability insurance

An employer must, unless exempt, hold employers’ liability insurance.⁶ This will help an employer pay compensation if an employee is injured or becomes ill due to their work. The policy must:

- (1) cover the employer for at least £5 million;
- (2) cover liability for bodily injury or disease sustained by their employees arising out of and in the course of their employment in Great Britain; and
- (3) come from an authorised insurer.⁷

³ [Government Guidance: Employment status: Self Employed](#)

⁴ [Regulation 115 of the Social Security \(Contributions\) Regulations 2001 \(SI 2001 No. 1004\)](#)

⁵ [Government Guidance: Model fisherman’s work agreements](#)

⁶ [Section 1: Employers’ Liability \(Compulsory Insurance\) Act 1969](#)

⁷ [Government Guidance: Employers’ Liability Insurance](#)

The requirement covers employees who are ordinarily resident in Great Britain or who, though not ordinarily resident in Great Britain, are present in Great Britain in the course of employment for a continuous period of not less than 14 days. Similar provisions are applicable in Northern Ireland.⁸

Offshore employers may be exempt from holding employers' liability insurance where they are a member of a mutual insurance association of shipowners, provided that their insurance offers essentially equivalent protection to employers' liability insurance.⁹

If an employer does not have equivalent insurance through a mutual insurance association of shipowners, they should have employers' liability insurance in place.

A UK fishing vessel (or any other fishing vessel) may not enter or leave a port in the UK or elsewhere unless the vessel has insurance in place.¹⁰

National insurance

For National Insurance purposes, employed fishermen are treated as 'mariners' provided they meet the statutory definition.¹¹ In summary, the legislation requires that they be employed under a contract of service as a member of crew of any ship or vessel. Mariners are liable to national insurance contributions (UK Class 1) if they are domiciled or resident in Great Britain or Northern Ireland and if they meet one of the following requirements:

- (i) their services are rendered aboard a British ship;
- (ii) their services are rendered aboard a ship and the contract in respect of the employment is entered into in the United Kingdom with a view to its performance (in whole or in part) while the ship or vessel is on its voyage;
or
- (iii) the person paying their earnings or their employer has their principal place of business in Great Britain or Northern Ireland.¹²

8 [Employer's Liability \(Compulsory Insurance\) Regulations \(Northern Ireland\) 1999](#)

9 [Schedule 2, paragraph 12: Employers' Liability \(Compulsory Insurance\) Regulations 1998](#)

10 [Regulation 27: Merchant Shipping \(Work in Fishing Convention\) Regulations 2018](#)

11 [Regulation 115 of the Social Security \(Contributions\) Regulations 2001 \(SI 2001/1004\)](#)

12 [Regulation 118 of the Social Security \(Contributions\) Regulations 2001 \(SI 2001/1004\)](#)

Pensions

Onshore

Eligible jobholders should be enrolled into an automatic enrolment scheme.^{13 14}



An eligible jobholder is an individual who fulfils the following criteria:

- working (or ordinarily working) in the UK under a contract;
- aged between 22 and state pension age¹⁵;
- has earnings which exceed the earnings trigger in a relevant pay reference period; (£192 per week, £833 per month, £10,000 per year)¹⁶; and
- not already an active member of the employer's qualifying scheme.

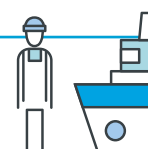
Both the employer and the eligible jobholder must make contributions to the scheme, as follows:

- The employer should contribute 3%
- The employee should contribute 5% but can contribute more.

Employees and workers have the right to opt out of the scheme if they wish, though they cannot be forced to do so. If an employee or worker has opted out, the employer should automatically re-enrol the eligible jobholder every three years – although the employee can once again choose to opt out.

Offshore

Employers must enrol an eligible jobholder in offshore employment, including employed fishermen, into an automatic enrolment pension scheme under the same rules as outlined above if they are working (or ordinarily working) in the UK.¹⁷ In an offshore context, a key consideration under the legislation may be whether a seafarer is regarded as 'ordinarily working' in Great Britain or Northern Ireland (which includes fisherman working offshore in the English, Scottish or Northern Irish area).¹⁸ Assessing whether a seafarer ordinarily works in the UK is complicated; for more information, please refer to the Pensions Regulator's [guidance](#).



13 [The Pensions Regulator: Automatic enrolment – workplace pension duties](#)

14 [Pensions Act 2008](#), [Pensions \(No. 2\) Act \(Northern Ireland\) 2008](#) and [Pensions Act \(Northern Ireland\) 2012](#)

15 [The Pensions Regulator: Assessing the workforce](#)

16 [The Pensions Regulator: Earnings thresholds](#)

17 [Automatic Enrolment \(Offshore Employment\) Order 2012](#)

18 [Article 2: Automatic Enrolment \(Offshore Employment\) Order 2012](#)

National Minimum Wage

Employers must ensure that employees are paid the National Minimum Wage (“NMW”). NMW rates vary depending on the age of the employee and are updated at the start of April each year. The rates for 2023 are set out below.^{19 20}

Dates	23 and over rate	21-22 rate	18-20 rate
1 April 2023-31 March 2024	£10.42	£10.18	£7.49

If you are sponsoring a Skilled Worker the rules require a minimum salary of at least £10.75 per hour, which exceeds the NMW. All other employees must be paid in line with the NMW rules.

- NMW applies to any employed fisherman working in UK territorial seas (regardless of where they ordinarily work or where their ship is registered).²¹
- NMW does not apply to share fisherman.²²
- Further guidance on when NMW applies to fisherman can be found on the [government website](#).

When a **Certificate of Sponsorship** is assigned to a Skilled Worker, the sponsor must tell the Home Office the migrant’s PAYE reference number. The Home Office will use this number to check with HMRC whether the sponsor is paying the Skilled Worker the correct amount. For more information please refer to SK5.16 of the official guidance entitled [“Workers and Temporary Workers: guidance for sponsors. Sponsor a Skilled Worker”](#). There may be some circumstances in which a sponsored migrant is not remunerated via PAYE.

Working Time

Closely linked to hourly wage rates are the rules on working time. Different legislation applies to the regulation of hours of work for onshore business, and for offshore businesses. The rules can be quite complex. For onshore businesses, the law is under [the Working Time Regulations 1998](#), though there are different regulations for Northern Ireland; [the Working Time Regulations \(Northern Ireland\) 2016](#).

For offshore businesses, hours of work are regulated by [the Fishing Vessels \(Working Time: Sea-fishermen\) Regulations 2004](#). There are permitted exceptions to these regulations, granted by the Maritime and Coast Guard Agency which are found here [MSN 1884 \(F\)](#).

19 [Government Guidance: National Minimum Wage and National Living Wage rates \(UK\)](#)

20 [Government Guidance: National Minimum Wage and National Living Wage rates \(Northern Ireland\)](#)

21 [The National Minimum Wage \(Offshore Employment\) \(Amendment\) Order 2020](#)

22 [Section 43 of the National Minimum Wage Act 1998](#)

The following is a brief summary of the working time regimes.

Onshore

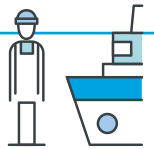
Employees have a right for their average working time (including overtime) not to exceed 48 hours per week.²³ Average working time is calculated using a 17-week reference period and excludes annual leave, sick leave, and maternity leave.



Employers may ask workers and employees to waive this right in writing (an “opt-out agreement”).

Offshore

An employed fishermen’s working time (including overtime) should not exceed 48 hours per week, and an employer should take all reasonable steps to ensure this limit is complied with.²⁴



For sea fishing, in contrast to the rules noted above, average working time is calculated using a 52-week reference period. Unlike with onshore workers, employed fishermen cannot waive this right under an opt-out agreement. Normal hours of work and any provisions for overtime should be set out in the fisherman work agreement which we discuss below.

Reference periods and the Immigration Rules

As noted above, the law regarding working time for onshore and offshore employers relies on reference periods of 17 weeks and 52 weeks. There are complex rules on reference periods and how they are determined.

The Immigration Rules also permit the use of a 17-week reference period, when it comes to the salary calculations if weekly hours will vary. This allows working hours which exceed 48 hours in some weeks to be counted if the average over a “cycle” is not more than 48 hours per week (normally the Immigration Rules do not permit a sponsor to include working hours beyond 48 per week in salary calculations). The Immigration Rules provide that a “cycle” can be up to 17 weeks.

The different regimes, reference periods, and cycles are likely to cause significant confusion. The reference periods under working time law may not necessarily be the same as under the Immigration Rules. For example, for onshore businesses it may not be possible to have a reference period of less than 17 weeks, even though it is possible under the Immigration Rules to have a “cycle” of less than 17 weeks.

²³ [Regulation 4: Working Time Regulations 1998](#),
[Regulation 4: Working Time Regulations \(Northern Ireland\) 2016](#)

²⁴ [Regulation 6: Fishing Vessels \(Working Time: Sea-fishermen\) Regulations 2004](#)

Similarly, a cycle of 52 weeks is not permissible under the Immigration Rules for an offshore business, but it is the law as regards working time on a fishing vessel.

We intend to publish some worked examples on these matters, to assist seafood businesses in understanding how these reference periods and cycles might work in practice.

Rest periods and rest breaks

The rules on working time require an employer to provide rest periods and rest breaks. Any rest of less than 30 minutes would generally be considered to be a “rest break” rather than a rest period.

Onshore

Workers and employees are entitled to a daily rest period of not less than 11 consecutive hours in each 24-hour period during which they work for the employer.²⁵



Workers and employees are further entitled to not less than 24 hours' uninterrupted rest in each seven-day period in which they work for the employer, or the employer's choice of:

- i. two uninterrupted rest periods of not less than 24 hours in each 14-day period or
- ii. one uninterrupted rest period of not less than 48 hours in each 14-day period.²⁶

In terms of breaks within working hours, workers and employees are entitled to a daily rest break of 20 minutes away from their workstation if their working time is more than six hours, unless a collective agreement governing the employer and employee/worker's relationship states otherwise.²⁷

Employers should also ensure that a worker or an employee has adequate rest breaks where their pattern of work is repetitive or has a pre-determined work rate, in order to avoid putting the health and safety of the worker at risk.²⁸

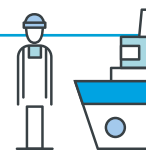
²⁵ [Regulation 10: Working Time Regulations 1998](#),
[Regulation 12: Working Time Regulations \(Northern Ireland\) 2016](#)

²⁶ [Regulation 11: Working Time Regulations 1998](#),
[Regulation 13: Working Time Regulations \(Northern Ireland\) 2016](#)

²⁷ [Regulation 12: Working Time Regulations 1998](#),
[Regulation 14: Working Time Regulations \(Northern Ireland\) 2016](#)

²⁸ [Regulation 8: Working Time Regulations 1998](#),
[Regulation 10: Working Time Regulations \(Northern Ireland\) 2016](#)

Offshore



Both employed fisherman and share fishermen are entitled to minimum daily rest of not less than 10 hours in a 24-hour period, which may be divided into no more than two periods. One of these two periods must be at least six hours in length, with no more than 14 hours between consecutive rest periods. Fishermen are further entitled to a minimum weekly rest period of 77 hours in a seven-day period.²⁹

Fishermen will inevitably spend their hours of rest aboard their working vessel. If a fisherman is at rest but required to be available for work (other than if permitted by the skipper in an emergency or unless an exception applies³⁰), it is unlikely that this time can genuinely be considered a rest period.

Where the pattern of hours of work may jeopardise the health and safety of a fisherman, and particularly where the work is monotonous (including repetitive work), the employer must also provide reasonable rest breaks.³¹ If there is only one rest break in a period of 6 hours work that break should be at least 20 minutes.

Night work

There are special rules which apply to night work; 'night time' is defined as the period between 11pm and 6am.

Onshore



Where an individual works at night, their hours of work should not exceed an average of eight hours for each 24 hours in a 17-week reference period (or if the employee or worker has been employed for under 17 weeks, the total amount of time they have been employed by that employer).

If the night work an employee or worker undertakes involves special hazards or heavy physical or mental strain, their hours of work should not exceed eight actual hours per 24 hours (or in other words, the average calculation will not apply).³²

Employers must offer free health assessments to night workers (or any individual they intend will become a night worker) and ensure that night workers have ongoing access to free health assessments at regular intervals.^{33 34}

²⁹ [Fishing Vessels \(Working Time: Sea-fishermen\) Regulations 2004](#)

³⁰ [Regulations 13 and 14: Fishing Vessels \(Working Time: Sea-fishermen\) Regulations 2004](#)

³¹ [Regulation 9: Fishing Vessels \(Working Time: Sea-fishermen\) Regulations 2004](#)

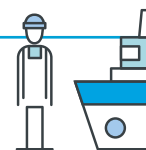
³² [Regulation 6: Working Time Regulations 1998,](#)
[Regulation 7: Working Time Regulations \(Northern Ireland\) 2016](#)

³³ [Regulation 7: Working Time Regulations 1998,](#)
[Regulation 9: Working Time Regulations \(Northern Ireland\) 2016](#)

³⁴ <https://www.gov.uk/night-working-hours/health-assessments>

Offshore

Employers are not permitted to assign an employed fisherman to night work unless the employee has had a free confidential health assessment.



Employers are obliged to offer all employed fisherman working nights the opportunity to attend a free confidential health assessment before becoming a night worker. Employers must also move a night worker to other duties, where possible, if night working is causing problems with the employed fisherman's health.³⁵

Annual leave

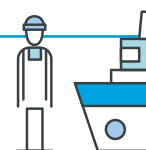
Onshore

Employees must be provided with a total of 5.6 weeks (28 days) of paid annual leave per year. This comprises 4 weeks (20 days) of annual leave, plus 1.6 weeks (8 days) of additional public and bank holiday leave.^{36 37}



Offshore

Employed fishermen must be provided with a total of 5.6 weeks (28 days) of paid annual leave per year. This comprises 4 weeks (20 days) of annual leave, plus 1.6 weeks (8 days) of additional public and bank holiday leave.^{38 39}



Record keeping

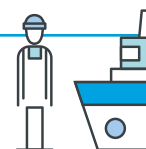
Onshore

Employers must keep adequate records to show whether regulations relating to maximum weekly working time, night work and health assessments are being complied with in relation to each worker or employee they employ. You must retain these for two years from the date on which they are made.⁴⁰



Offshore

Employers must keep adequate records to show whether regulations relating to maximum weekly working time, rest and health assessments are being complied with in relation to each employed fisherman and share fisherman. You must retain these for two years from the date on which they are made.⁴¹



35 [Regulation 8: Fishing Vessels \(Working Time: Sea-fishermen\) Regulations 2004](#)

36 [Regulation 13: Working Time Regulations 1998,](#)
[Regulation 15: Working Time Regulations \(Northern Ireland\) 2016](#)

37 [Regulation 13A: Working Time Regulations 1998,](#)
[Regulation 16: Working Time Regulations \(Northern Ireland\) 2016](#)

38 [Regulation 11: Fishing Vessels \(Working Time: Sea-fishermen\) Regulations 2004](#)

39 [Regulation 11A: Fishing Vessels \(Working Time: Sea-fishermen\) Regulations 2004](#)

40 [Regulation 9: Working Time Regulations 1998,](#)
[Regulation 11: Working Time Regulations \(Northern Ireland\) 2016](#)

41 [Regulation 10: Fishing Vessels \(Working Time: Sea-fishermen\) Regulations 2004](#)

In respect of weekly working time, in lieu of daily records for each member of crew, the Maritime and Coastguard Agency will accept exception reporting if the vessel has a safe manning document, a compliant safety management code or a compliant schedule demonstrating compliance with the hours of work and hours of rest limits. If such documents are not in place, daily records of hours must be completed. Please see [MSN 1884\(F\)](#) for further guidance on this.

The Equality Act 2010

Onshore

The Equality Act protects people from discrimination in the workplace. It is unlawful to discriminate on the basis of a “protected characteristic”;

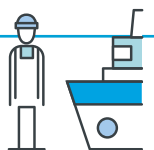


- age
- gender reassignment
- being married or in a civil partnership
- [being pregnant](#) or on maternity leave
- [disability](#)
- race including colour, nationality, ethnic or national origin
- religion or belief
- sex
- sexual orientation

The government has published [detailed guidance](#) on the Equality Act 2010 which you should refer to.

Offshore

The Equality Act 2010 (Work on Ships and Hovercraft) Regulations 2011 (along with similar but separate provisions for Northern Ireland) extend part of the Equality Act 2010, concerning work, to seafarers. This includes;



- all seafarers, irrespective of nationality, who work on board UK registered ships or hovercraft which operate wholly or partly in Great Britain or its internal or territorial waters;
- British, EU, EEA and “designated State” seafarers whose employment is located in (or closely linked to) the UK, working on board EEA registered ships/hovercraft operating wholly or partly in the UK and/or its internal or territorial waters (except in relation to the protected characteristic of marriage and civil partnership); and

- British, EU, EEA and “designated State” seafarers whose employment is located in (or closely linked to) the UK, working on board UK registered ships and/or hovercraft operating wholly outside of the UK and/or its internal or territorial waters.

A “designated state” is the countries of the African, Caribbean and Pacific Group of States, the Kingdom of Morocco, Montenegro, the Most Serene Republic of San Marino, the People’s Democratic Republic of Algeria, the Principality of Andorra, the Republic of Albania, the Republic of Croatia, the Republic of Macedonia, the Republic of Tunisia, the Republic of Turkey, the Russian Federation, or the Swiss Confederation.

The African, Caribbean and Pacific Group of States is a significant grouping of states, the full list of countries covered can be viewed [here](#).

Differential pay

Onshore

The Equality Act 2010 does not permit pay discrimination.

Offshore

The Equality Act 2010 (Work on Ships and Hovercraft) Regulations 2011 (and equivalent legislation for Northern Ireland), extend equal pay rules to seafarers, with some exceptions. This is a complex area, and you are advised to seek specialist legal advice.



Statements of particulars and fishermen's work agreements

Onshore



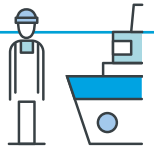
Employers must provide workers and employees with a written statement of particulars. The law differs here between Great Britain, where it is governed by the Employment Rights Act 1996 and Northern Ireland, where it is governed by the Employment Rights (Northern Ireland) Order 1996.

A statement of particulars is widely known as a Section 1 statement. A contract of employment must include all that is within the Section 1 statement. In Great Britain the statement must contain the following information (the law applying to Northern Ireland is similar and further guidance can be found [here](#)):

- name of the employer and name of the employee;
- job title;
- place of work;
- date the employment/engagement begins;
- date on which the employee's period of continuous service began;
- rate of remuneration or the method of calculating remuneration;
- intervals at which remuneration is paid;
- normal working hours;
- days of weeks the employee is required to work;
- whether the employee's hours or days are variable; if so, how they vary and how that may be determined;
- amount of holiday entitlement;
- terms and conditions relating to pensions and pension schemes;
- terms and conditions relating to any other benefits;
- notice period required to terminate;
- how long the period of engagement is, if not permanent;
- conditions and duration of any probationary period;
- specific information if the employee will be working outside the UK for a period of more than one month;
- details of any training the employee must complete;
- any further training required that the employer will not pay for;
- where the employee can find the employer's disciplinary or grievance policies; and
- any collective agreements affecting the terms and conditions of employment.⁴²

⁴² [Section 1: Employment Rights Act 1996](#)

Offshore



The UK has brought some parts of the International Labour Organisation Work in Fishing Convention, known as ILO188 into UK law through the Merchant Shipping (Work in Fishing Convention) Regulations 2018.

These regulations impose various requirements, one of which is a duty to enter into a fisherman's work agreement with both an employed fisherman and a share fisherman. Original copies of such agreements (with copies of any document referred to within it) should be shared as soon as practicable.^{43 44} A copy of the fisherman's work agreement must also be held on board the vessel with a translation in English (if necessary).

Fishing vessel owners have a responsibility to proactively ensure that the fisherman has sufficient opportunity to review and seek advice on the work agreement's terms and conditions. Additionally, the fisherman must receive a clear explanation of their rights and responsibilities within the agreement and enter into it voluntarily.

The employed fisherman must be paid their salary monthly (or at other regular intervals as set out in the fisherman's work agreement).

The fishing vessel owner must also ensure that an account of wages is prepared and delivered to the employed fisherman periodically during the work agreement at intervals not exceeding one month, and within one month of the date on which the agreement terminated.

The fisherman's work agreement must contain all of the following information 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 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 known at the time of making the agreement);
- the capacity in which the fisherman is to be employed or engaged;

43 [Regulation 8: Merchant Shipping \(Work in Fishing Convention\) Regulations 2018](#)

44 [Part 3: Merchant Shipping \(Work in Fishing Convention\) Regulations 2018](#)

- 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 conditions by which the agreement can be terminated, whether the agreement is for a period of time, until the end of a voyage, or for an indefinite time;
- the protection that will cover the fisherman in the event of sickness, injury or death while in service;
- any health insurance cover and other benefits to be provided to the fisherman; and
- the fisherman's entitlement to repatriation, where relevant.

The following information must also be included for employed fisherman only:

- normal hours of work and any provision for overtime;
- details of grievance and disciplinary procedures;
- any pension attached to the employment;
- amount of wages and any agreed minimum wage;
- amount of paid annual leave or the formula used for calculating leave, where applicable; and
- minimum periods of rest (see rest periods section for exceptions to this requirement).⁴⁵

The following must also be included for share fisherman only:

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

The Maritime and Coastguard Agency has produced a template fisherman's work agreement for employed fishermen.⁴⁶ This includes provisions such as those listed above, as well as details of where to find grievance and disciplinary procedures (as required by section 1 of the Employment Rights Act 1996 and Article 33 of the Employment Rights (Northern Ireland) Order 1996 (in respect of disciplinary proceedings)).

Further information about [fishermen's work agreements](#) and the [payment of fishermen](#) can be found in the linked Marine Guidance Notes.

⁴⁵ [Schedule: Fisherman's Work Agreement: Merchant Shipping \(Work in Fishing Convention\) Regulations 2018](#)

⁴⁶ [Government Guidance: Model fisherman's work agreements](#)

Part 2: Other areas covered by the Merchant Shipping (Work in Fishing Convention) Regulations 2018 and related legislation.

Costs to be met by fishing vessel owners

Under the 2018 Regulations fishing vessel operators are required to cover a range of costs which include repatriation (including associated costs of food, water, clothing, accommodation, medical treatment and more) unless the fisherman has committed a serious breach of their fisherman's work agreement.⁴⁷

While an employed fisherman or share fisherman is aboard the vessel, the fishing vessel owner and the skipper of a fishing vessel must also provide food and drinking water to the fisherman at the vessel owners expense. This food and drinking water must be suitable in terms of quality, quantity, and nutritional value, and where appropriate, fulfil the religious requirements of the fishermen on board. They must also be fit for consumption and not contain anything likely to cause sickness or make them unpalatable.⁴⁸ Further information on the provision of food and water can be found in [Marine Guidance Note 595](#).

Fishing vessel owners must ensure that fishermen receive medical treatment on board the vessel where practicable, and are taken to receive medical treatment ashore in a timely manner if necessary.⁴⁹ For further information on obligations relating to medical treatment and care, please see [Marine Guidance Note 582](#) and [Marine Guidance Note 586](#).

Deductions from wages

Employers can make deductions from wages if permitted by law. This includes deductions relating to goods supplied, radio or telephone calls (which may include internet charges), postage expenses and trade union membership fees.⁵⁰ Deductions may also be made where these are permitted by the fisherman's work agreement, provided the nature and total amount of each deduction is detailed in the account of wages provided to a fisherman.⁵¹

47 [Regulation 14: Merchant Shipping \(Work in Fishing Convention\) Regulations 2018](#)

48 [Regulation 22: Merchant Shipping \(Work in Fishing Convention\) Regulations 2018](#)

49 [Regulation 26: Merchant Shipping \(Work in Fishing Convention\) Regulations 2018](#)

50 [Regulations 6-10: Merchant Shipping \(Seamen's Wages and Accounts\) \(Fishing Vessels\) Regulations 1972](#)

51 [Schedule: Merchant Shipping \(Seamen's Wages and Accounts\) \(Fishing Vessels\) Regulations 1972](#)

Repatriation

The 2018 Regulations contain complex rules on the right to repatriation. A fisherman can request and is entitled to be repatriated, at no cost to them, after a period of service of 12 months (or another shorter period if specified in their fishermen's work agreement). This entitlement to be repatriated also arises:

- where the fisherman's work agreement expires;
- where the fisherman's work agreement has been terminated by the fishing vessel owner for justified reasons;
- where the fisherman's work agreement had been terminated by the fisherman for justified reasons;
- where the fisherman is no longer able to carry out the fisherman's duties under the fisherman's work agreement or cannot be expected to carry them out in the specific circumstances; or
- where the fisherman's employment agreement is terminated pursuant to an order of a court or tribunal.

A fisherman does not have to be repatriated if they choose to serve on board for a period longer than 12 months.

Further information on repatriation can be found in [Marine Guidance Note 584](#).

Length of service

The length of contract is a matter for agreement between the vessel and the fisherman.

If a fisherman chooses to serve on board for a longer period than 12 months, they have a duty to ensure that they are not putting the health and safety of others at risk by choosing to stay longer than their maximum period of service.

The Schedule to the Merchant Shipping (Work in Fishing) Convention Regulations 2018 (which sets out the prescribed content of a Fisherman's Work Agreement) envisages agreements being made "*for a definite period*", "*for a voyage*" and for "*an indefinite period*".

It is important to note that these requirements are distinct from the period of sponsorship that might be chosen for a Skilled Worker and stipulated on a **Certificate of Sponsorship**, which can be up to 5 years initially.

There is also a lack of clarity on how the Merchant Shipping (Work in Fishing) Convention Regulations 2018 interact with the Immigration Rules and sponsorship under the Skilled Worker visa. A fisherman is entitled to repatriation after 12 months service, though they may choose to remain in the UK. If a fisherman is repatriated and is absent without pay for more than 4 weeks, sponsorship should be suspended, though the fisherman could subsequently be sponsored for a further period of work in the UK and seek a new visa.

Sponsorship for periods longer than 12 months should be permissible if it is anticipated that the fisherman will wish to remain beyond the date at which they become entitled to repatriation, or if repatriation will be for less than 4 weeks unpaid (including any other unpaid periods in the previous 12 months).

If a sponsored fisherman does choose to end their engagement after 12 months, then this should be reported on the SMS and sponsorship should be ended.

An employed fisherman (including fishermen employed under a Skilled Worker visa) may accrue continuity of service if employed under a series of fixed term contracts or under an indefinite contract. This could give rise to the right to be able to bring an unfair dismissal claim once they have 2 years' continuous employment (in Great Britain) or 1 year's continuous employment (in Northern Ireland).⁵²

Where an employed fisherman has the requisite length of service to bring an unfair dismissal claim and is an employee, the vessel owner would need to have a fair reason for dismissal and to have followed a fair process before dismissing to avoid liability for unfair dismissal claims.

Crew accommodation

The skipper of a vessel (or a crew member appointed by the skipper) and an accompanying crew member must inspect the crew accommodation at least every seven days to ensure it is clean, habitable, safe and in a good state of repair. The relevant individuals must keep records of these checks.⁵³

52 [Employment Rights Act 1996](#),
[the Employment Rights \(Northern Ireland\) Order 1996](#)

53 [Section 20: Merchant Shipping \(Work in Fishing Convention\) Regulations 2018](#)

Fishermen's Training

Before being employed on a fishing vessel registered in the UK, a worker must hold a certificate (or certificates) issued by the Sea Fish Industry Authority (Seafish) certifying that they have undergone the required Approved Training Courses as a minimum:⁵⁴

- *Basic Sea Survival* must be completed before starting work.
- *Basic Fire Fighting, Basic First Aid, and Basic Health and Safety* must all be completed within three months of starting work.
- *Safety Awareness* must be completed by experienced fishermen – those who have been working two or more years. New entrants can undertake this course after a minimum of six months.
- The Maritime and Coastguard Agency will accept certain other certificates as equivalent for satisfying some of these requirements. This is outlined in [Marine Guidance Notice \(MGN\) 411](#) documentation.

For up to date information visit [Seafish – Mandatory Training](#).

Recruiting from overseas

Where sponsors use overseas recruitment and placement services, such as employment agencies, to engage sponsored workers, it is important to check that the country in which the service is based has ratified at least one of the following International Labour Organization Conventions:⁵⁵

- ILO Work in Fishing Convention 2007
- Private Employment Services Convention 1997 (No. 181)
- Maritime Labour Convention 2006

UK law has various restrictions that exist in relation to the use of employment agencies. Such restrictions should not apply if you are sponsoring a candidate directly without using an agency.

For further information, see [Marine Guidance Note 620](#).

54 [Regulation 2: Fishing Vessels \(Safety Training\) Regulations 1989](#)

55 [Maritime and Coastguard Agency: Marine Guidance Note 620](#)

The recovery of costs from workers

An employer will often pay for immigration related costs on a sponsored worker's behalf or provide a loan to the employee to enable them to cover costs. An employer may consider recovering those costs from the worker during their engagement or may contractually require a worker to reimburse some costs if the worker leaves their role earlier than anticipated. Additionally, certain deductions can be made from fishermen's wages where this is authorised by their **fishermen's work agreement** as discussed above.

Note that there may be tax implications for employer loans, please refer to HMRC's [guidance](#) on this.

The recovery of costs from workers must be approached very carefully.

Immigration-related costs

Costs recovered from a worker must never include the **Immigration Skills Charge**. The costs recovered should also not include the fee incurred by the employer to pay for a sponsor licence, this could give rise to unfairness.

Avoiding debt bondage or exploitation

Arrangements made to recover costs from an employee must not constitute debt bondage or exploitation.

The government defines debt bondage as workers being "tricked into working for little or no money to repay a debt."⁵⁶ According to charity *Anti-Slavery International*, workers under debt bondage tend to be tricked into working for little or no pay and are forced to pay off highly inflated fees associated with their accommodation, food, or recruitment. Workers under debt bondage have little or no control over this debt and most of the money they earn is put toward paying it off.⁵⁷

Under the [Modern Slavery Act 2015](#), it is an offence to:

- hold another person in slavery or servitude (including debt bondage); or
- require another person to perform forced or compulsory labour (labour with an element of coercion, oppression, or deception of the victim),

where the circumstances are such that the employer knows or ought to know that this is the case.⁵⁸

⁵⁶ [Gangmasters & Labour Abuse Authority: Human trafficking, forced labour and debt bondage](#)

⁵⁷ [Anti-Slavery International: What is bonded labour?](#)

⁵⁸ [Section 1: Modern Slavery Act 2015](#)

The [Modern Slavery Act 2015](#) also makes clear that the consent of a worker to any of these acts does not prevent a determination that they are being held in slavery or servitude or being subject to forced or compulsory labour.⁵⁹

Employers should further note that fishing vessel owners are required by law to take reasonable steps to satisfy themselves that the fisherman is entering into the fishermen's work agreement freely.⁶⁰ This means:

- the fisherman must have had sufficient opportunity to review and take advice on the terms of and conditions of the agreement. This means you should ensure the agreement is in a language that the fisherman can understand.;
- the fisherman must have received an explanation of the rights and responsibilities of the fisherman under the agreement; and
- the fisherman must be entering into the agreement freely.

It is an offence punishable by summary conviction where a fishing vessel owner fails to take these reasonable steps.⁶¹

To avoid cost recovery resembling debt bondage or exploitation, it may help to ensure that:

- the employer is entirely honest and open with the worker about the amount of debt to be incurred and how much the repayments will be;
- the money earned by the worker is applied to the payment of the debt;
- the value of monthly repayments is not so high that the worker's pay falls below NMW or the worker does not have a reasonable sum of money left over after the repayment and other deductions (such as PAYE, pension, accommodation, food costs, etc);
- the length and nature of the services the worker provides are not limited and defined in relation to the debt; and
- the worker can enter into the agreement fully informed and of their own accord. This may be difficult given the inherent power imbalance between a sponsored worker and an employer, though this could be mitigated by the employer funding independent legal advice about the arrangement on behalf of the employee.

⁵⁹ [ibid](#)

⁶⁰ [Regulation 9, Merchant Shipping \(Work in Fishing Convention\) Regulations 2018](#)

⁶¹ [Regulation 29, Merchant Shipping \(Work in Fishing Convention\) Regulations 2018](#)

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