**FISHERMAN’S WORK AGREEMENT**

 **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 owner/manager, hereinafter called the “fishing vessel owner/manager” (see Note 2(2))*

**OF**....................................................................................................................................................................................................................................................................................................................................................................................................................................................

(*insert full address of fishing vessel owner)*

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)*](http://www.dft.gov.uk/mca/mcga07-home/workingatsea/mcga-healthandsafety/maritime_labour_convention_2006/mcga-ds-ssh-mlc-sea.htm#note3)]\* 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(2))*

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 …………………………………………………..; and

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)*

**(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** *(See Note 8)*

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

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

**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 is ……………….weeks *(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 …………………………….. ……… *(State position held)*

**NOTES**

**Note 1 - “insert date of birth or age”** *-* Normally the date of birth in full (Day, Month, Year). Fisherman’s age at the time the FWA was signed should used **only** where there is no means of establishing the Fisherman’s date of birth.

**Note 2 - “Name and Address of employer or fishing vessel owner or other party to the fisherman’s work agreement”**

* 1. **For employed fishermen**

If the Fisherman is employed, the name and address of the employer should be inserted at Point (2) of this model FWA. If the fishing vessel owner is not the employer the separate provision at (3) should be completed and signed by the fishing vessel owner.

OR:

Where the fishing vessel owner is the employer of the fisherman the fishing vessel owner’s name and address should be inserted at (2) and the entry at (3) should be deleted.

*[If the Fisherman does not have an employer, the alternative form of Work Agreement should be used for non-employed fishermen - see ANNEX C.]*

* 1. **For self-employed share fishermen**

Insert the name and address of the fishing vessel owner or manager, who takes responsibility for ensuring that the terms and conditions under which the fisherman works compliance with the Work in Fishig Convention n board the fishing vessel.

**Note 3 – “The Place where Agreement is entered into”** : th*e* name of village, town or city (and if outside the UK, the country), or the name and port of registry of the ship [fishing vessel], where the Agreement is signed by the parties to it.

**Note 4 – “Place of Work”** :

EITHER the name and registered number of the vessel on which the Fisherman is to work, where this is known;

OR

where the Fisherman may be employed on more than one vessel, enter *“Place of Work may be on any vessel owned, managed or chartered by [the fishing vessel owner]”*.

**Note 5 - “Capacity in which Fisherman is to be employed/engaged”** - The capacity in which the Fisherman is to be employed/engaged at the time the FWA is signed by the parties to it. *See also note 18.*

**Note 6 – Provisions to be supplied –** Arrangements for food and potable water on board.For a self-employed share fisherman, this should state whether/how the cost of food and water will be charged as a running cost of the vessel.

**Note 7 Payment of fishermen**

1. **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. When wages will be paid and by what method (cash/bank transfer etc).

1. **For self-employed share fishermen**

This section must set out how and when the fisherman will be remunerated, including how the share of the catch is calculated, and identify any deductions, and how they will be calculated.

**Note 8 - Notice of Termination of Agreement** - The period of notice required to be given to the Fisherman by the fishing vessel owner must not be less than that required to be given to the fishing vessel owner by the Fisherman.

**Note 9 – Protection in the event of sickness, injury or death in connection with service**

This will includes provision for compensation from the fishing vessel owner in case of occupational injury, sickness or death payable from financial security provided under regulation 27 of the Merchant Shipping (Work in Fishing Convention) Regulations 2018.

**Note 10 – Health and Social Security Protection Benefits**

This includes payment by the fishing vessel owner of any costs of medical care in respect of any sickness or injury occurring during the term of the FWA and until the Fisherman is repatriated.

On a UK registered vessel the provision of medical care includes any surgical or medical treatment or such dental or optical treatment (including the repair or replacement of any appliance) which is necessary during the term of the FWA.

In case of wreck or loss of the ship, employed crew members are entitled to wages at the rate payable under their work agreement (excluding any element based on a share of the catch) for any period of unemployment as a result of the wreck or loss, for up to two months (s38 of the MSA 1995 as modified by s 114).

**Note 11 –“Paid Leave”** (employed fishermen only) - The period of paid leave per annum is primarily a matter between the fishing vessel owner or employer if different and the Fisherman but must be not less than the period of statutory paid leave specified in the Merchant Shipping (Working Time: Sea Fishing) Regulations 2004 (as amended)

* 4 weeks per annum, (pro rata for periods of less than one year or part time employees) plus
* 8 days additional leave in respect of public holidays per annum, or pro rata for periods of less than one year or part time employees.

Where it is more appropriate to do so, the formula to be used for calculating annual leave may be stated.

**Note 12 - Repatriation –** Circumstances in which the fisherman may no longer be able to carry out their duties may include -

* shipwreck
* the sale of the vessel or a change in the vessel’s registration
* illness or injury or other medical condition, diagnosed by a Doctor as requiring repatriation,
* fishing vessel is proceeding to a [war zone or high risk area for piracy;]

The destination for repatriation should be stated in the fisherman’s work agreement. If not stated, the fisherman is entitled to be repatriated to one of the following:

* the place where the Fisherman entered into their employment agreement;
* their country of residence.

**Note 13 - Maximum duration of service periods after which you are entitled to repatriation**

The maximum period of service following which a Fisherman will be entitled to repatriation is to be not more than 52 weeks minus the period of statutory paid annual leave (where applicable - see note 11). Fishing vessel owners/employers must not require a Fisherman to continue to serve on board once the maximum period of service has expired except in an emergency or similar extenuating circumstances.

There is no statutory obligation on a fisherman to take repatriation at that time if he/she chooses to serve on board for a longer period e.g. to complete a period of sea time for certification purposes. However, the fisherman has a duty to ensure that they are not putting the health and safety of others at risk and should consider whether extending their contract may lead to excessive fatigue.

**Note 14 - Hours of Work** (employed fishermen only) The hours of work for fishermen on UK registered vessels must comply with the requirements of the Merchant Shipping (Sea-fishing: Working Time) Regulations 2004 (as amended) and MSN 1884(F).

For employed fishermen, this section should indicate the normal hours for which they are paid and any provision for overtime and the rate paid for that.

**Note 15 - Pension benefits** (employed fishermen only)Details of any employer pension scheme must be recorded, if applicable. In addition, where the employer makes deductions from the Fishermen wages towards any additional pension benefits (e.g. State Pension) to which a Fisherman may be entitled, it is recommended this is noted.

**Note 16** - **Non compliant provisions in FWAs** - Examples of clauses which would not be acceptable under UK law, include:-

1. **requiring that all Fishermen belong to a union or forbidding membership of a union** *- Under ILO Convention 87 on Freedom of Association, which has been ratified by the UK, workers are free to form and join appropriate organisations of their own choosing, but equally under UK law they cannot be required to do so. However, it is not acceptable for fishing vessel owners, employers or anyone else to discriminate against, or take action against those who either choose to join a union or who choose not to join a union.*
2. **requiring that Fishermen join a specified union -** *Apart from the previous provision regarding choice on whether or not to join a union, such a provision would also conflict with the International Labour Organisation Convention on Freedom of Association. This Convention has been ratified by the UK and provides that workers shall be free to form and join organisations of their own choosing.  It is however acceptable to promote membership of a trade union that has signed a collective agreement with the fishing vessel owner albeit without an obligation on the Fisherman to join that union.*
3. **requiring that by signing the agreement Fishermen automatically agree to medical information about themselves being passed to the fishing vessel owner or another party acting on behalf of the fishing vessel owner. -** *This is not acceptable and may only be done with the specific prior authority of the Fisherman on each occasion the fishing vessel owner requests that such information be made available.*
4. **requiring that by signing the agreement Fishermen automatically agree to sensitive personal data (as defined in the Data Protection Act) about them being passed to other individuals or organizations as determined appropriate by the fishing vessel owner or another party acting on behalf of the fishing vessel owner. -** *This also is not acceptable as such individuals/organisations may potentially be located in countries that do not have data protection legislation or have legislation that does* *not provide similar protection to that of the UK. Such transfer of “sensitive personal information” may only be undertaken with the specific prior authority of the Fisherman on each occasion the fishing vessel owner proposes that such information be passed to another individual or organisation.*
5. **requiring that a Fisherman bear the cost of his repatriation, and the cost of providing his replacement, should he terminate his employment prior to completing the specified period of employment even though he gave the period of notice to terminate his employment that was required by the agreement.** - *Under UK legislation a Fisherman can only be charged the cost of his repatriation if he has breached his obligations under the agreement or has been dismissed on disciplinary grounds. The giving of the period of notice specified in the agreement would not constitute breach of the Fisherman’s obligations even if it terminated his employment before the date envisaged in the agreement.*
6. **requiring payment, or deduction of wages, for items which the UK legislation requires to be provided free of charge, for example, accommodation, food and catering, provision of personal protective equipment, medical care -** *The Wages Regulations applicable to Fishermen only permit certain specified deductions to be automatically made from the wages due to a Fisherman. For employed fishermen, these do not include costs incurred in providing accommodation, food and catering, personal protective equipment and medical care to Fishermen.*

**the levying of fines on a Fisherman by a fishing vessel owner in respect of a breaches of that Fisherman’s obligations under his FWA or for breaches of discipline***.* - *No provision exists under UK Merchant Shipping law for fines to be levied on Fishermen by fishing vessel owners in respect of disciplinary offences .*

**This list is illustrative only and should not be taken as listing all provisions that would be considered unacceptable.**

**Note 17 – “Certification by Fishing vessel owner and Fisherman”**

Fishermen signing an FWA must be given an opportunity to examine and seek advice on the terms and conditions of that agreement before signing it, and have any other facilities they need to ensure that they have freely entered into the FWA with a sufficient understanding of their rights and responsibilities.

**Note 18 - Changes during the period of validity of the FWA** - If during the validity of the FWA, the capacity in which the Fisherman is employed, their wages or the way they are paid is likely to change, the fishing vessel owner may wish to consider whether a new FWA should be issued in such circumstances or alternatively could include a provision in the FWA indicating how any changes to capacity will be dealt with e.g. by means of a letter.