

INTERNATIONAL LABOUR ORGANIZATION WORK IN FISHING CONVENTION (No. 188)

Health and safety: responsibilities of fishing vessel owners, managers, skippers and fishermen

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

This notice should be read in conjunction with the Merchant Shipping and Fishing Vessels (Health and Safety at Work) Regulations 1997 as amended in 2018. It replaces MGN 20(M+F)

Summary

This Notice contains information and guidance on responsibilities of the fishing vessel owner (which includes the manager), skipper and fishermen for health and safety on board UK fishing vessels, including:

- The owner's responsibility to provide a safe working environment, suitable accommodation and sufficient resources on board the fishing vessel to ensure that everyone can work and stay on board safely and without risk to their health;
- This skipper's responsibility for the safety of fishers on board, and the safe operation of the vessel;
- The right of the skipper to take any decision necessary for the safety of the vessel, its navigation, operation and those on board;
- The responsibility of fishermen to comply with the orders of the skipper and any safety and health measures on board.

1. Introduction

1.1 The Merchant Shipping (Work in Fishing) (Consequential and Minor Amendments) Regulations 2011 amend the Merchant Shipping and Fishing Vessels (Health and Safety at Work) Regulations 1997 so that they fully comply with the requirements of the International Labour Organization's (ILO) Work in Fishing Convention (No. 188) ("the Convention") for health and safety.

1.2 In particular, they extend health and safety protection under the Regulations to cover all fishermen, regardless of their employment status. Employed fishermen, share fishermen and self-employed fishermen are all protected by the Convention, and the fishing vessel owner has responsibilities towards anyone working on their vessel. The sections of the Merchant Shipping and Fishing Vessels (Health and Safety at Work) Regulations 1997 which all fishing vessels must now comply with are set out in this notice.

1.3 Commercial fishing carries high risk to health and safety. Accident, death and serious injury rates are over 20 times higher than other sectors. While there are significant inherent risks in working at sea, and in the work carried out on board a fishing vessel, MAIB reports continue to judge that most accidents in fishing vessels could have been avoided through appropriate and systematic application of health and safety regulations.

1.3 Owners and managers must take responsibility for the safety of the vessel, the condition of equipment on board and ensuring that safe working procedures are in place to minimise risk.

2. Application – General

2.1 Except where indicated, the Regulations apply to all UK-flagged fishing vessels of any length, wherever they may be, and for the purposes of Port State Control, to non-UK fishing vessels when in a UK port or UK waters (territorial waters).

2.2 The following definitions apply:

“fisherman” includes every person (except pilots) employed or engaged in any capacity on board any fishing vessel;

“fishing vessel” means a vessel for the time being used for or in connection with fishing for sea fish other than a vessel used for fishing otherwise than for profit; and for the purposes of this definition “sea fish” includes shellfish, salmon and migratory trout (as defined by section 44 of the Fisheries Act 1981);

“fishing vessel owner” means the owner of the fishing vessel or any other organisation or person such as the manager, agent or bareboat charterer, who has assumed the responsibility for the operation of the vessel from the owner and who, on assuming such responsibility, has agreed to take over the duties and responsibilities imposed on fishing vessel owners in accordance with the Convention, regardless of whether any other organisation or person fulfils certain of the duties or responsibilities on behalf of the fishing vessel owner;

3. Duty of fishing vessel owner (regulation 4(1)) and skipper

3.1 The **fishing vessel owner** (which includes the manager if they have assumed responsibility for the operation of the vessel as defined in paragraph 2.2) has overall responsibility to ensure that the skipper is provided with the necessary resources and facilities to comply with the Regulations. The owner should set the health and safety policy for the vessel so that the skipper is clear what is expected.

3.2 While the owner always has overall responsibility, it is recognised that they may have limited control of day to day activities. The regulations provide that responsibility also rests with the person in control of any particular matter.

3.3 The **skipper** therefore has responsibility for the safety of fishermen on board the vessel and the safe operation of the vessel. In fulfilling their responsibility the MCA expects skippers to -

- a) Provide supervision to ensure that fishermen work safely at all times;
- b) Manage fishermen in a manner which respects safety and health, including prevention of fatigue;
- c) Arrange regular on-board occupational safety and health awareness training; and
- d) Ensure compliance with safety of navigation, watchkeeping and associated good seamanship standards.

4. General duties (regulation 5(1))

4.1 The fishing vessel owner has a duty to ensure the health and safety of fishermen and other persons so far as is reasonably practicable.

- 4.2 In fulfilling this duty, the following principles must be applied -
- (a) avoiding risks – this includes combating risks at source, replacing dangerous practices, substances or equipment by non-dangerous or less dangerous practices, substances or equipment;
 - (b) evaluation of unavoidable risks and the taking of action to reduce them; **MGN [Personal Flotation Devices *[included in the consultation package]*] covers one example – the risk of falling overboard.**
Guidance on risk assessment is included in the SEAFISH safety folder [link]
 - (c) adopting work patterns and procedures which
 - take account of the capacity of the individual, especially in respect of the design of the workplace and the choice of work equipment
 - alleviate monotonous work; and
 - reduce any consequent adverse effect on workers' health and safety;**This may include additional measures to take account of inexperience, unfamiliarity with the vessel, language barriers etc. MSN [working time] and MGN 505 (M+F) provide guidance on organising working time and prevention of fatigue.**
 - (d) adapting procedures to take account of new technology and other changes in working practices, equipment, the working environment and any other factors which may affect health and safety;
 - (e) adopting a coherent approach to management of the vessel or undertaking, taking account of health and safety at every level of the organisation; **[Guidance on safety management systems in development]**
 - (f) giving collective protective measures priority over individual protective measures; It is better to put in place safety measures (e.g. insulation on hot pipes) which protect everyone, than to rely on personal protective equipment (PPE e.g. gloves) which only protect the person wearing them. PPE should always be the last line of defence where risks cannot be removed in other, more effective ways. **[MSN 1870 gives information and guidance on provision and use of personal protective equipment.]**
 - (g) the provision of appropriate and relevant information and instruction for workers. **This includes familiarisation with the vessel, on board procedures, information about risks and any training or instruction required on board.**[See section 7]
- 4.3 In particular, in order to fulfil their duty to ensure health and safety, the measures taken by the fishing vessel owner should include, but are not limited to, the following : -
- (a) providing and maintaining plant, machinery and equipment and systems of work that are, so far as is reasonably practicable, safe and without risk to health;
 - (b) making arrangements to ensure, so far as is reasonably practicable, safety and absence of risk to health in connection with the use, handling, stowage and transport of articles and substances;
 - (c) making appropriate arrangements for the effective planning, organisation, control, monitoring and review of safety measures; the arrangements should be appropriate for the nature of the activities on board, any substances used and the size of the operation;

(d) providing any necessary information, instruction, training and supervision to ensure the health and safety of fishermen and that of other persons on board the fishing vessel who may be affected by their acts or omissions;

(e) maintaining all places of work on the vessel in a condition that is, so far as is reasonably practicable, safe and without risk to health;

(f) arrangements to ensure, so far as is reasonably practicable, that no person has access to any area of the fishing vessel to which it is necessary to restrict access on grounds of health and safety unless the individual concerned has received adequate and appropriate health and safety instruction;

(g) providing and maintaining an environment for persons on board the fishing vessel that is, so far as is reasonably practicable, safe and without risk to health;

(h) collaborating with any other owners or employers where appropriate to protect, so far as is reasonably practicable, the health and safety of all authorised persons aboard the fishing vessel or engaged in loading or unloading activities to or from the fishing vessel.

5. Risk assessment

5.1 The fishing vessel owner must ensure that a suitable and sufficient risk assessment has been carried out for all work activities on the fishing vessel. Measures should be taken to reduce risks as far as is reasonably practicable.

5.2 [The concept of “so far as is reasonably practicable involves weighing a risk against the trouble, time and money needed to control it. So in considering a risk which would cause minor harm and could only be further reduced at high cost, it may be reasonable to say that no more needs to be done to reduce the risk. But measures should always be taken to reduce a risk with severe consequences. There is no easy formula for deciding what is reasonably practicable - it involves an element of judgement. The judgement should always be weighted in favour of safety.]

5.3 Any employer other than the owner, and any self-employed person or share fisherman, connected with the vessel has a duty to inform the fishing vessel owner of any risks arising from their undertaking. The fishing vessel owner should review these risks and amend or adapt their risk assessment accordingly.

5.4 The skipper and crew should be closely involved with the risk assessment, to take advantage of their practical knowledge and experience of the work, what can go wrong, and how to prevent that. But the owner has overall responsibility for ensuring that the risk assessment has been done and acted upon.

5.5 The assessment must be reviewed if
(a) there is reason to suspect that it is no longer valid; or
(b) there has been a significant change in any of the matters to which it relates,
If the review identifies a need to change any procedures or practices, those changes must be made as soon as practicable.

5.6 The crew should be informed of the findings of the risk assessment and any measures taken for their protection.

5.7 The risk assessment must be written down so that it is available to the skipper and crew of the vessel, and to authorised persons during inspections. It is good practice to review the risk assessment regularly (at least every year) to ensure that any changes affecting its validity are identified. A written risk assessment will help to ensure that when it is reviewed nothing is missed. Even if no changes are required, any documentation should be annotated to show that a review has been carried out.

5.8 The crew should be involved in reviewing the risk assessment – see section 10.2.

5.9 As well as the documented risk assessment, it is important to assess any additional particular risks which may arise day to day. For example, weather conditions and other factors affecting the safe operation of the vessel such as equipment defects or shortcomings, reduced stability, and the proximity of hazards to navigation may require normal working practices to be modified.

5.10 Guidance on risk assessment is available at [[add link to Safety Folder](#)]

6. [Safety procedures – Based on Convention Article 32

6.1 [This section is mandatory for fishing vessels which are

- 24m in length or over; or
- which normally remain at sea for more than 3 days.]

However, it is good practice for vessels of any length.

6.2 “Normally remain at sea for more than 3 days” means not returning to port within a 72 hour period.

6.3 The fishing vessel owner must establish on-board procedures for the prevention of occupational accidents, taking into account the findings of the risk assessment, including –

- a) Ensuring every fishermen working on board has received basic safety training; **See MGN 411 Training and Certification Requirements for the Crew of Fishing Vessels and their Applicability to Small Commercial Vessels and Large Yachts.**
- b) Training and information for the crew, including on risk assessment;
- c) Records of training and familiarisation on board;
- d) Provision of appropriate personal protective equipment for all those working on board, based on the risk assessment for working on the vessel.

7. Capabilities and training (regulation 12)

7.1 When allocating duties on board, account shall be taken of the capabilities of crew members as regards health and safety. The risk assessment should identify those tasks which require specific training or familiarisation. Language barriers and communication difficulties should also be considered.

7.2 Fishermen shall be provided with adequate and appropriate health and safety training and instruction –

- a) before being assigned to shipboard duties;
- b) if they are being exposed to new (different) or increased risks, compared to what they are used to because of –
 - (i) a change of responsibilities,
 - (ii) the introduction of new equipment or a change to equipment already in use,
 - (iii) the introduction of new technology, or
 - (iv) the introduction of new shipboard practices, a new system of work or a change to a system of work already in use.

7.3 Health and safety training must -

- a) be repeated periodically where appropriate;
- b) be adapted to take account of any new or changed risks to the health or safety of the workers concerned; and
- c) take place during the working hours of the worker concerned.

7.4 Where a crew member is employed through an employment agency, the fishing vessel owner must provide the employment agency with information on –

- a) any special occupational qualifications required by workers to carry out their work safely;
- b) the specific features of the jobs to be filled by those workers (in so far as those features are likely to affect their health and safety); and
- c) any health surveillance required to be provided to workers under these or other relevant regulations.

7.5 Where crew are employed through an employment agency, the employment agency concerned must ensure that the information provided is given to the crew members they provide to the vessel.

8. Co-ordination (regulation 13)

8.1 Where there are workers on board a fishing vessel who are not employed by the fishing vessel owner, the owner must –

- a) consult every other employer of those workers regarding the arrangements for health and safety;
- b) co-ordinate arrangements for the protection of all fishermen and other workers and the prevention of risk to their health and safety; and
- c) ensure that all fishermen and other workers are informed of the significant and relevant findings of the risk assessment (see section 5), and of the arrangements for their protection.

An example would be researchers.

9. Extension of duties in other Regulations as regards seafarers who are not workers (Regulation 13A)

9.1 The fishing vessel owner also owes a duty to fishermen on board under other health and safety regulations (listed in the Annex to this Notice) where the regulations refer to the duty of employers towards workers.

10. Other duties of the fishing vessel owner

10.1 Protective and preventive services

- a) The fishing vessel owner must ensure that sufficient resources are available to ensure health and safety on their vessels and that a competent person takes charge of this (referred to in the Regulations as “protective and preventive services”) to enable them to comply with the requirements of these Regulations. The competent person may be the fishing vessel owner themselves or the skipper, or they may engage external help. If external help is engaged, the owner and the skipper must provide support. This includes –
 - providing access to any necessary information, documents and similar material including relevant legislation and Merchant Shipping Notices;
 - providing them with relevant information about –
 - (i) the risks and measures for protection identified through risk assessment

(section 5 of this notice),

(ii) factors known, or suspected, by them to affect the health and safety of the workers on board the ship, and

(iii) arrangements for fire-fighting, first aid and other emergency procedures;

- ensuring that the competent person has the necessary resources and means to carry out their functions and duties;
 - allow the competent person such absence from ship duties without loss of pay as may be necessary to enable them to fulfil their functions, or to undertake any necessary training in health and safety matters;
 - receive at any reasonable time, representations about health and safety from the crew, discuss their representations with them and implement any agreed measures as soon as may be reasonable and practicable.
- b) The fishing vessel owner must ensure that every accident involving death, major or serious injury, and every dangerous occurrence is recorded and made available on request to any crew member and any investigator of accidents (MAIB inspector). In addition the skipper and crew members should report any accidents or incidents on board to the owner. This will allow the owner to monitor trends and take this information into account to update and improve the risk assessment.

10.2 Consultation with workers (regulation 20)

- a) The fishing vessel owner must consult the crew on all matters relating to their health and safety, and in particular on –
- appointing a competent person to provide protective and preventive services;
 - the findings of the risk assessment;
 - arrangements for health and safety training;
 - the introduction of new technology.
- b) Fishermen must be able to make representations about health and safety, and the owner must implement any agreed measures as soon as may be reasonable and practicable.
- c) Fishermen shall be given access by the fishing vessel owner to any relevant information about –
- health and safety matters from inspection agencies and health and safety authorities; and
 - every accident involving death, major or serious injury, and every dangerous occurrence.

10.3 Any fishermen with health and safety functions shall be given adequate time off work without loss of income in order to exercise those functions, and shall be provided with appropriate training. They shall not be placed at a disadvantage (whether economic or otherwise) because of their health and safety activities.

11. General duties of workers (Regulation 21)

11.1 Every fisherman working on board a fishing vessel must —

- a) take reasonable care for their own health and safety and that of any other person aboard ship who may be affected by their acts or omissions; and
- b) co-operate with the owner and the skipper in respect on health and safety matters. This includes complying with the lawful orders of the skipper and applicable safety and health measures including on-board procedures.

11.2 In particular, no fisherman shall—

- a) use any machinery, equipment, dangerous substance, transport equipment, means of production or safety device provided by their employer or the fishing vessel owner unless they do so in accordance with any relevant training or

- instructions (including procedures) which have been received or provided by the owner or the skipper;
- b) disconnect, change or remove or otherwise interfere with any safety device provided by the employer or the fishing vessel owner.

- 11.3 Every fisherman must immediately inform the fishing vessel owner, skipper or another competent person (such as the competent person engaged for preventive or protective services)
- of any matter they consider a deficiency in arrangements for health and safety on board the ship; and
 - of any work situation which they think represents a serious and immediate danger to health and safety.

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ANNEX

Merchant Shipping Health and Safety Regulations containing duties in respect of workers which regulation 13A extends to all seafarers

The Merchant Shipping and Fishing Vessels (Health and Safety at Work) (Artificial Optical Radiation) Regulations 2010 **(1)**

The Merchant Shipping and Fishing Vessels (Health and Safety at Work) (Asbestos) Regulations 2010 **(2)**

The Merchant Shipping and Fishing Vessels (Health and Safety at Work) (Work at Height) Regulations 2010 **(3)**

The Merchant Shipping and Fishing Vessels (Health and Safety at Work) (Chemical Agents) Regulations 2010 **(4)**

The Merchant Shipping and Fishing Vessels (Health and Safety at Work) (Biological Agents) Regulations 2010 **(5)**

The Merchant Shipping and Fishing Vessels (Health and Safety at Work) (Carcinogens and Mutagens) Regulations 2007 **(6)**

The Merchant Shipping and Fishing Vessels (Control of Vibration at Work) Regulations 2007 **(7)**

The Merchant Shipping and Fishing Vessels (Control of Noise at Work) Regulations 2007 **(8)**

The Merchant Shipping and Fishing Vessels (Lifting Operations and Lifting Equipment) Regulations 2006 **(9)**

The Merchant Shipping and Fishing Vessels (Provision and Use of Work Equipment) Regulations 2006 **(10)**

The Merchant Shipping and Fishing Vessels (Safety Signs and Signals) Regulations 2001 **(11)**

The Merchant Shipping and Fishing Vessels (Personal Protective Equipment) Regulations 1999 **(12)**

The Merchant Shipping and Fishing Vessels (Manual Handling Operations) Regulations 1998 **(13)**

The Merchant Shipping and Fishing Vessels (Health and Safety at Work) (Employment of Young Persons) Regulations 1998 **(14)**.

(1) [S.I. 2010/2987](#)

(2) [S.I. 2010/2984](#), amended by [S.I. 2012/632](#) and [S.I. 2013/1473](#)

(3) [S.I. 2010/332](#)

(4) [S.I. 2010/330](#), amended by [S.I. 2010/1110](#), [S.I. 2011/1043](#) and [S.I. 2012/1844](#)

(5) [S.I. 2010/323](#)

(6) [S.I. 2007/3100](#)

(7) [S.I. 2007/3077](#)

(8) [S.I. 2007/3075](#)

(9) [S.I. 2006/2184](#), amended by [S.I. 2008/2166](#)

(10) [S.I. 2006/2183](#), amended by [S.I. 2008/2165](#)

(11) [S.I. 2001/3444](#)

(12) [S.I. 1999/2205](#)

(13) [S.I. 1998/2857](#)

(14) [S.I. 1998/2411](#), amended by [S.I. 2002/2125](#) and [S.I. 2002/3135](#)