

Working on UK fishing vessels: the legal framework and support for fishers

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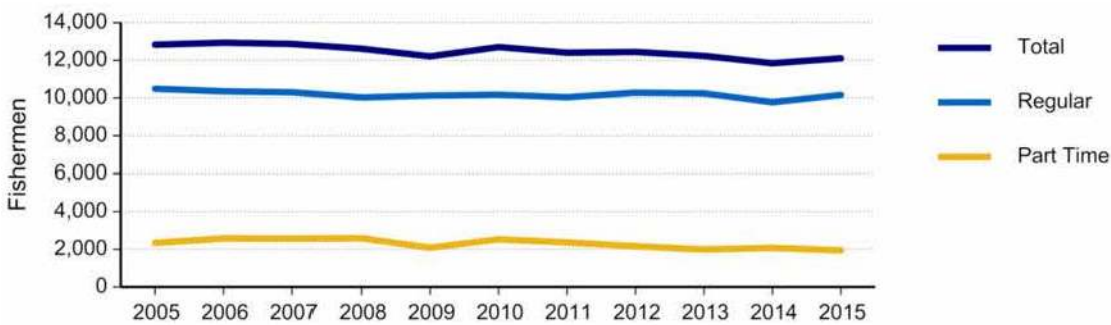
BACKGROUND: Employment in the UK fishing industry

Numbers of fishers employed in the UK in 2015

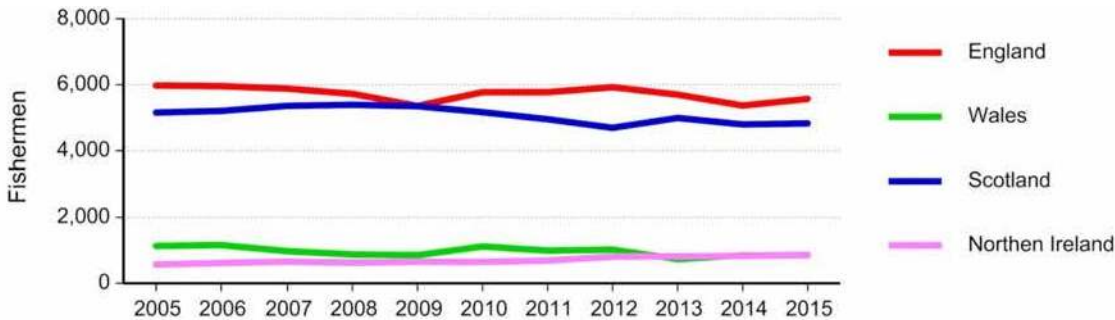
According to Marine Management Organisation (MMO) statistics (September 2016 - compiled from surveys carried out by the MMO in England, The Welsh Assembly Government, The Department of Agriculture, Environment and Rural Affairs (DAERA) in Northern Ireland and Marine Scotland there were **12,107** UK fishers in 2015 (around 16% were part-time). This includes 5,569 fishers in England, 851 in Wales, 4,828 in Scotland, and 859 in Northern Ireland. The number of regular fishers on UK- registered vessels has decreased by 3% since 2005, and the number of part time fishers by 17% over this period).

<http://www.marinemanagement.org.uk/fisheries/statistics/annual.htm>

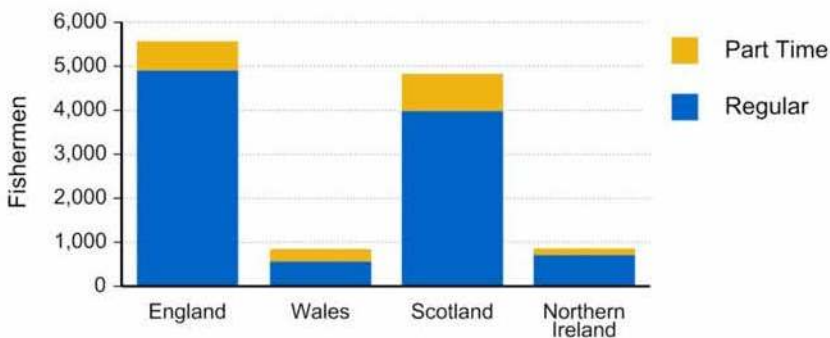
Number of fishers on UK registered vessels: 2005 to 2015



Number of fishers by country of administration: 2005 to 2015



Number of regular and part-time fishers by country of administration: 2015



Nationality of fishers working on UK fishing vessels

Since the mid-1980s Seafish has been recording details of all Seafish training courses completed by fishers working on UK registered commercial fishing vessels (basic safety training has been a legal requirement for fishers since 1989). See page 8.

Seafish has records for 13,596 fishers for whom safety awareness training places have been delivered between 2005 and 2015 in the UK (although we have no records showing who is currently working in the industry). To give an idea of changes over the years - in 2005 there were 17 nationalities recorded amongst the 1,937 trainees who completed Safety Awareness training; in 2015 there were 33 nationalities.

Seafish records show 13,596 fishers. In terms of nationality this breaks down to:

Origins of fishers on Seafish training courses from 2005 to 2015

Nationality	Numbers registered – safety awareness training delivered	Percentage split
Commonwealth*	195	1%
EEA	24	
EU***	1,633	12%
Non-EEA	1,737	13%
UK**	7,079	52%
Not stated	2,928	22%
	13,596	100%

Source: Seafish statistics 2016

*Other than the UK

**The UK does include the Isle of Man and the Channel Islands, although numbers are very small.

*** The EU means the EU but not the UK.

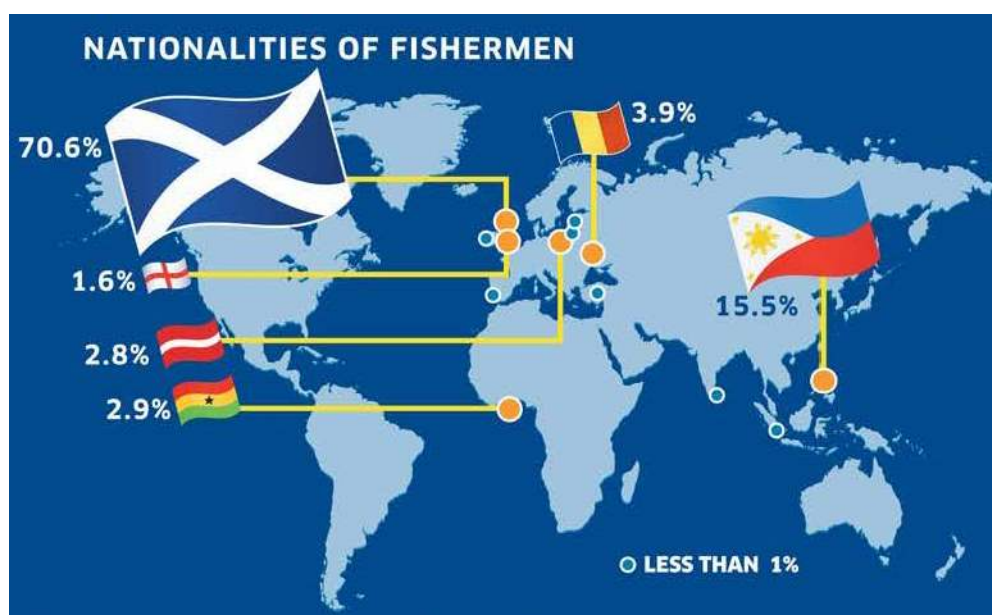
Nationality of non-EEA fishers on Seafish training courses from 2005 to 2015

Nationality of non-EEA fishers	Numbers registered as completing training courses	Percentage of all non-EEA trainees registered
Filipino	708	41%
Peruvian	644	37%
Indonesian	225	13%
Russian	45	2%
Chilean	41	2%
Senegalese	34	2%
Ukrainian	10	1%
American	6	2%
Uruguayan	4	
Belarusian	3	
Armenian	3	
Iranian	2	
Paraguayan	2	
Moroccan	2	
Turkish	2	
Argentinean	1	
Algerian	1	
South Korean	1	
Ethiopian	1	
Brazilian	1	
Ecuadorean	1	
	1,737	

The figures above suggest that non-UK nationals are employed on UK registered fishing vessels, in particular nationals from outside the European Economic Area (EEA). This can be for a number of reasons which are not discussed in this briefing. In these figures there is an absence of specific nationalities, such as Ghanaian and Sri Lankan, which is a concern.

Marine Scotland Sea Fisheries Employment 2015¹

This report presents analysis undertaken by the Marine Analytical Unit in Marine Scotland Science on data collected between September and November 2015 by Seafish on behalf of Marine Scotland. The aim of the 2015 survey was to update the 2013 Scottish Sea Fisheries Employment Report to provide current information on the structure of employment and key characteristics of crews, such as age, nationality and skills. A range of nationalities were represented in the 753 crews from sampled vessels. Respondents from the United Kingdom identified their nationality as Scotland, Shetland and England, and accounted for 67.7%, 2.5% and 1.6%, respectively. Crews from the European Economic Area (EEA) totalled 8.1% of those sampled and came from six countries – Ireland (0.1%), Latvia (2.8%), Lithuania (0.4%), Poland (0.8%), Romania (3.9%) and Spain (0.1%). Crews from non-EEA countries totalled 19.3% and came from four countries – Philippines (15.4%), Ghana (2.9%), Sri-Lanka (0.9%) and Belarus (0.1%).



Contribution to fishing made by non-EEA crew²

In response to requests from the fishing industry to illustrate the importance of non-EEA crew, Seafish estimated the contribution to fishing made by non-EEA crew members in key fleet segments in Scotland and in Northern Ireland in 2015 (July 2016)². A summary of the estimates from the Seafish paper shows or suggests that:

- A fair estimate of annual contribution of non-EEA crew to fishing revenues in the Northern Ireland over 10m nephrops trawl fleet would be around 25% of total vessels revenues, which is around £4 million annually from 2012 to 2014.
- For North Sea nephrops trawl vessels, assuming around 25% of crew are non-EEA, then their contribution to annual revenues would have been between £8 million and £13 million in the years from 2012 to 2014.
- For demersal trawl vessels fishing in the North Sea and West of Scotland, estimates of revenues contributed by the 25% of crew who were non-EEA were from £34 million to £38 million in years 2012 to 2014.

1. Marine Scotland Sea Fisheries Employment 2015. Published 25 October 2016.

<http://www.gov.scot/Resource/0050/00507777.pdf>

2. Seafish Economic Analysis – Contribution to fishing made by non-EEA crew members. July 2016.

http://www.seafish.org/media/Publications/Non_EEA_crew_FINAL_28July16.pdf

The legal framework to work on UK fishing vessels

LEGAL: Applies to EU/EEA (European Economic Area) and Swiss national passport or National Identity card holders

Citizens of EU/EEA Member States have the right to live and work in the UK (known as the 'right of residence'). There is no need to apply for permission to work in the UK. There are few restrictions on EU and EEA nationals wanting to join the UK fishing industry, although they must still evidence compliance with UK basic safety training requirements. They are entitled to: seek and accept offers of work; work as an employee and/or in self-employment; and suffer no discrimination on grounds of nationality in terms of conditions of employment, pay or working conditions.

Guidance

- UK Visas and Immigration - Services and guidance

See: <http://www.bia.homeoffice.gov.uk/>

Seafish seagoing training

See: <http://seafishonlinetraining.co.uk/> and <http://www.seafish.org/training/seagoing-training>

LEGAL: Applies to non-EEA nationals. Not a British citizen or a European Economic Area (EEA) citizen, or a Swiss national

Non-EEA nationals have no automatic legal entitlement to work in the UK, including in our territorial waters, however they can transit to the UK to work on vessels operating outside UK territorial waters. A transit visa is required to enter the UK in order to take up a confirmed offer of work on fishing vessels based in the UK and working outside UK territorial waters (more than 12 nautical miles (nm) from shore).

Certain non-EEA crew members who are visa nationals and hold a seaman's book issued in line with ILO convention 108 (or ILO Convention 185 where the country, as a result of ratifying ILO185, has now denounced ILO 108) do not need entry clearance to join a ship as a contract seaman³.

Transit or 'to join ship' visas to work on vessels that operate outside UK territorial waters⁴

- Non-EEA migrants can come to the UK on transit visas to join ships that are currently in the UK which operate outside of UK territorial waters (12 nm). Because these fishers are joining ships that operate outside the UK, they do not fall under the scope of normal immigration rules, which means they do not need permission to work. However, they do need permission to enter the UK to join the ship – effectively to transit. To do so, they must obtain permission to join the ship, either by way of a visa issued overseas, or with the permission of an immigration officer at the UK border. Those provisions are necessary to allow international vessels to change crew, thus allowing fresh crews to arrive in the UK to join ships and outgoing crews to leave ships and return home.
- Within the fishing industry, the arrangements mean the UK's deep-sea fleet has been able to bring in non-EEA fishers without prior permission to work because the fleet operates outside territorial waters. This is a perfectly legitimate use of the immigration system.
- The transit visas for the fleet that operates outside our territorial waters are granted in the same way as any other visa. They are issued only when a Border Force official overseas, or on the border, is satisfied that the applicant meets the requirements of the rules. The official therefore has to be satisfied that the applicant is genuinely joining a ship at a UK port and the vessel will be leaving UK territorial waters in the near future. The individual circumstances of each application are examined by officers from Border Force on a case-by-case basis.

3. Operational Guidance for seamen. Page 22. <https://www.gov.uk/government/publications/seamen>

4. House of Commons debate. 28 November 2012. <http://www.theyworkforyou.com/whall/?id=2012-11-28a.94.0>

- Operational guidance for seafarers is based on the Immigration Act 1971 and the Immigration Rules. This states that ‘fishers seeking entry under contract to join a fishing vessel should be treated as other contract seamen. Crew working aboard a fishing vessel need permission to work if they are not nationals of the European Economic Area (EEA), and if the fishing vessel operates wholly or mainly within UK territorial waters (within the 12 mile limit)’⁵.
- Non-EEA nationals cannot come to work on vessels that operate within the 12 nm limit (the inshore fleet) under the transit visa provisions. People who work - or employ people to work - on vessels in the inshore fleet after they have come to the UK on a transit visa, or sought to enter at the border to join a ship, are breaking immigration law and behaving unlawfully.

Crew members living on board vessels

Crew personnel employed on vessels operating outside UK waters will not normally be prevented from disembarking for the purpose of shore leave while the vessel is in a UK port. Under section 8(1) of the Immigration Act 1971⁵, crew of a vessel which arrives in a UK port, and who are under engagement to subsequently leave the UK on that vessel as crew, may enter without leave. An Immigration Officer may, however, require such persons to submit to examination in order to determine whether they require leave to enter and, if so, what conditions and time limit are to be attached to such leave. This means that when a vessel, which has non-EEA crew, has returned from operations in international waters, the crew may disembark, enter and remain in the UK, without leave, until the vessel’s next departure.

Limited concession in March 2010

Some years ago, it became apparent that some in the UK inshore fishing fleet were using non-EEA labour to crew their ships. Due to genuine concerns in March 2010 temporary concessions (with strict conditions) allowed for up to 1,500 visas to be issued to non-EEA fishers to work in UK territorial waters (within the 12 nm limit) on the UK inshore fleet to give it sufficient time to transition to using local labour for such jobs. This ‘limited concession outside the rules for crew employed on fishing vessels operating in UK territorial waters’⁶ was to allow time to identify the labour requirement and put in place the relevant training mechanisms so that people could gain the appropriate skills to staff the inshore fleet. This concession closed in August 2012 – there is no longer permission for non-EEA migrants to work on inshore UK fishing vessels.

Issues over interpretation

Whilst there is a published policy⁵ - it is permissible for crew to join a fishing vessel leaving from and returning to a UK port, but only if the vessel will leave UK waters and not operate in territorial waters thereafter - there are some issues over interpretation and definition.

In January 2016 there were reports in *Fishing News* that the Border Agency has been clamping down on the employment of non-EEA nationals on inshore fishing boats in Northern Ireland and the West of Scotland. The article stated the Border Force was refusing to allow non-EEA nationals to crew boats unless the boats spend at least 75% of their time outside the 12 nm mile limit. In addition there have been reports that vessel crew has been refused entry if the vessel fished inside 12 miles in the previous three months and that vessels had to provide VMS data.

5. Immigration Act 1971, section 8. <http://www.legislation.gov.uk/ukpga/1971/77/section/8> and <https://www.gov.uk/government/publications/seamen>

6. Limited concession outside the rules for crew employed on fishing vessels operating in UK territorial waters <https://www.whatdotheyknow.com/request/79858/response/444295/attach/3/FS50481909%20A%20Information%20to%20Release%20Simpson%20OPIs%20FinalScan.doc.pdf>

- Operational guidance for seafarers refers to the vessel operating ‘wholly or mainly’ within UK territorial waters (within the 12 nm limit)⁵. The policy is ‘wholly or mainly’ and the construction is deliberate – the default position is wholly but ‘mainly’ allows for innocent passage and, potentially, shelter from rough seas.
- Border Force has not set a ‘75% rule’ (as mentioned in the *Fishing News* article). In the vast majority of cases where enforcement action has been taken it is quite clear that vessels spend a minimal amount of time outside territorial waters.
- Vessel Monitoring System (VMS) data is used to track the position of the vessel. When making an application for transit visas for crew, industry has questioned the value of using historical VMS data as evidence of the likelihood of where the vessel will operate in the future.

Guidance

Operational guidance for seamen arriving in the UK (based on the Immigration Act 1971 and the Immigration Rules).

See: <https://www.gov.uk/government/publications/seamen>

How applications from seafarers outside the UK are handled by UK Visas and immigration

See: <https://www.gov.uk/government/publications/seafarers-crm01>

Immigration Act 1971

See: <http://www.legislation.gov.uk/ukpga/1971/77/contents>

Scottish Fishermen’s Federation/Fishermen’s Mission Code of Practice for employment of non-EEA fishing crew.

See: <http://www.sff.co.uk/wp-content/uploads/2016/05/NON-EEA-CREW-Code-of-Practice.pdf>

Maritime and Coastguard Agency Voluntary Code of Practice for Employment of Non-European Economic Area (EAA) (MGN 413 (F)). This Marine Guidance Note aims to raise awareness of the voluntary Code of Practice produced by SFF.

See: <http://www.dft.gov.uk/mca/mgn413.pdf>

LEGAL: Health and safety requirements for all those working on UK fishing vessels

Under a Memorandum of Understanding with the Maritime and Coastguard Agency (MCA), Seafish is responsible for the development, delivery and certification of mandatory safety training throughout the UK for commercial fishers. Enforcement and certificate inspection is carried out by the MCA.

The MCA states that all commercial fishers must complete basic health and safety training, sea survival, fire-fighting and first aid training to comply with UK requirements. A new entrant fisher in the UK must complete sea survival training before going to sea and then has three months within which to complete health and safety, first aid and fire-fighting training. Non-EEA nationals joining the UK commercial fishing industry on transit visas are required to complete basic health and safety training (in addition to the sea survival, fire-fighting and first aid training that they may have already completed in their own countries) to comply with UK requirements. All crew are not required to complete Safety Awareness training until they have been working on a UK registered fishing vessel for two years (though they can complete it any time between 6 months and 2 years). Voluntary training is available to those who wish to enhance their skills and knowledge as well as improve their employability. Courses are delivered by a network of Seafish Approved Training Providers. Skippers, mates and engineers working on larger vessels are required to hold MCA Deck and Engineer Officer Certificates of Competency.

UK Mandatory Qualifications

All vessels:

Basic Safety Training – all crew (including skipper)

- Sea Survival – Seafish or equivalent (e.g., STCW, RYA) certificate
- Health & Safety – Seafish certificate only
- First Aid – Seafish or equivalent (e.g., STCW, RYA) certificate
- Fire Fighting – Seafish or equivalent (e.g., STCW) certificate
- Safety Awareness – Seafish certificate only (required after two years)

Vessels of 16.5m and above:

Deck Officer Certificates of Competency (see manning requirements below)	<ul style="list-style-type: none"> • Class 1 - Skipper (Unlimited) or equivalent (e.g., Skipper Full) • Class 2 - Skipper (Limited Area) and/or Mate (Unlimited) or equivalent (e.g., Second Hand Full, Second Hand Special, Second Hand Limited) • Class 3 - Watchkeeper (Limited Area) or equivalent (e.g., Seafish 5-day Bridge Watchkeeping certificate)
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Vessels of 750kW and above:

Engineer Officer Certificates of Competency	<ul style="list-style-type: none"> • Class 1 – Chief Engineer • Class 2 – Second Engineer
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UK Voluntary Qualifications

Fishing vessels of 16.5m and above must carry certificated Deck Officers as listed below:

Skipper (under 16.5m)	<ul style="list-style-type: none"> • Seafish Under 16.5m Skipper's Certificate (Restricted) [up to 20nm] • Seafish Under 16.5m Skipper's Certificate (Unrestricted) [beyond 20nm] • Maritime & Coastguard Agency Boatmaster Licence • Royal Yachting Association Yachtmaster Offshore
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	<ul style="list-style-type: none"> Royal Yachting Association Coastal Skipper
Engineer (less than 750kW)	<ul style="list-style-type: none"> Maritime & Coastguard Agency 30-hour Approved Engine Course (AEC) Royal Yachting Association 1-day Engine Operator

UK Manning Requirements for Qualified Officers

Fishing vessels of 16.5m and above must carry certificated Deck Officers as listed below:

Fishing Area	Length of vessel	Deck officer (Class 1)	Deck officer (Class 2)	Deck officer (Class 3)
Unlimited	40m and over	2	1	
Unlimited	Under 40m	1	1	
Limited*	30m and over	1	1	
Limited*	24m or more but under 30m		1	1
Limited*	16.5m or more but under 24m		1	

Fishing vessels of 750kW propulsive power and above must carry certificate Engineer Officers as listed below:

Fishing Area	Engine Power (kW)	Engineer officer (Class 1)	Engineer officer (Class 2)	5 day engine room Watchkeeping
Unlimited	>750kW	1	1	
Limited*	>750kW	1		1

*For the purposes of fishing vessel qualifications requirements "limited" shall mean any location within the area bounded by a line from a point on the Norwegian coast in latitude 62°N due west to a point 62°N 3°W to a point 58°N 10°W thence to a point 53°N 12°W thence to a point 49°N 12°W thence to a point 46.30°N 6°W and thence due East to the French coast.

Seafish seagoing training

See: <http://seafishonlinetraining.co.uk/>

See: <http://www.seafish.org/training/seagoing-training>

Maritime and Coastguard Agency

- Fishing certification and training

See: <https://www.gov.uk/guidance/fishing-certification-and-training>

- For information on training requirements for workers on UK registered small commercial fishing vessels see **Marine Guidance Notice (MGN) 411**.

See: <http://www.dft.gov.uk/mca/mgn411.pdf>

- A guide to safe working practices and emergency procedures for fishers.**

See: https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/429226/197-377_Fisherman_s_Safety_Guide_Update-final.pdf

- Health and safety on ships

See: <https://www.gov.uk/health-and-safety-on-ships>

- Health and Safety Executive guidance

See: <http://www.hse.gov.uk/migrantworkers/index.htm>

- Fishing Crew and Health and Safety at Work: Protecting those not employed by the ship owner (MGN 492 (M+F)).**

See: https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/441073/MGN_492.pdf

LEGAL: Underpinning legislation and initiatives to help drive improved working conditions on board fishing vessels

To help improve the conditions on board fishing vessels for all commercial fishers it is important to be aware of key UK and global legislation and initiatives that are helping now, or will help in the future, to ensure fishers have minimum standards and decent conditions of work on board fishing vessels. This section gives details on specific legislation and incoming international standards to improve the welfare of fisher's in the UK. It is not however the intent of this section to imply that poor welfare standards or unacceptable behavior towards fishers is widespread among the UK fleet.

UK: Immigration Act 2016.

The Immigration Act will introduce new sanctions on illegal working, prevent illegal migrants accessing services and introduce new measures to enforce immigration laws. The Act received Royal Assent on 12 May 2016. Key enforcement provisions are:

- To appoint a new Director of Labour Market Enforcement to set the strategic priorities for labour market enforcement, thus ensuring that efforts are targeted where risk of non-compliance is greatest.
- Create an Intelligence Hub to support the work of the Director.
- Allow data sharing between the Director, the Intelligence Hub, labour market enforcement bodies and other bodies with intelligence.
- Create a new undertaking and enforcement order regime, with an associated criminal offence to tackle serious breaches of the law by employers.
- Transform the Gangmasters Licensing Authority into the Gangmasters and Labour Abuse Authority, with a broader remit and stronger powers to deal with labour exploitation.

See: <https://www.gov.uk/government/collections/immigration-bill-2015-16>

UK: The Modern Slavery Act 2015.

The Modern Slavery Act came into force in March 2015. The Act aims to prevent all forms of labour exploitation and increase transparency of labour practices in supply chains. The aim is to:

- Consolidate and simplify existing slavery and trafficking offences;
- Provide clarity and focus when investigating and prosecuting traffickers;
- Increase the maximum sentence available to life imprisonment;
- Introduce civil orders to restrict the activity of those who pose a risk and those convicted of slavery and trafficking offences;
- Create a new Anti-Slavery Commissioner role; establish a legal duty to report potential victims of trafficking to the National Crime Agency (NCA).
- A Transparency in Supply Chains (TISC) clause requires organisations to report on the processes and due diligence taken to ensure that their supply chains are slavery free.
- Gives greater powers for law enforcement to investigate cases at sea. If a constable or enforcement officer has reasonable grounds to suspect that an offence has been committed on a ship they may arrest anyone on a UK ship in England and Wales waters, foreign waters or international waters; a ship without nationality in England and Wales waters or international waters; a foreign ship in England and Wales waters; and a ship registered under the law of a relevant territory (being Isle of Man, any Channel islands or British Overseas territory), in England and Wales waters.

See: <http://www.legislation.gov.uk/ukpga/2015/30/contents/enacted>

Global: ILO Work in Fishing Convention (ILO 188). Launched June 2007.

This is a global labour standard to ensure fishers have minimum standards and decent conditions of work on board fishing vessels. This sets responsibilities for owners, skippers and fishers, regardless of their employment status. The Convention provides a modern and flexible regulatory framework that covers both large fishing operations and small-scale fishery. It seeks to ensure that fishers enjoy decent conditions of work on fishing vessels, by establishing minimum requirements for work on board, condition of service, accommodation and food, occupational safety and health protection, medical care and social security. The Convention is gradually being ratified by Member countries of the ILO, and will come into force internationally when it has been ratified by 10 states of which 8 are coastal states. The UK working timetable is to be ready to ratify by the time the Convention comes into force internationally.

See: http://www.ilo.org/global/standards/information-resources-and-publications/news/WCMS_478089/lang--en/index.htm

Global: Sustainable Development Goal 8.7

More than 150 world leaders gathered at United Nations Headquarters in New York in September 2015 to adopt an ambitious new sustainable development agenda. These decisions will determine the global course of action to end poverty, promote prosperity and well-being for all, protect the environment and address climate change. Agreed by the 193 Member States of the UN, the new agenda, Transforming Our World: 2030 Agenda for Sustainable Development, consists of a Declaration, 17 Sustainable Development Goals and 169 targets.

Goal 8 aims to promote sustained, inclusive and sustainable economic growth, full and productive employment and decent work for all.

- 8.5. By 2030, achieve full and productive employment and decent work for all women and men, including for young people and persons with disabilities, and equal pay for work of equal value.
- 8.7. Take immediate and effective measures to eradicate forced labour, end modern slavery and human trafficking and secure the prohibition and elimination of the worst forms of child labour, including recruitment and use of child soldiers, and by 2025 end child labour in all its forms.
- 8.8. Protect labour rights and promote safe and secure working environments for all workers, including migrant workers, in particular women migrants, and those in precarious employment.

See: <http://www.who.int/mediacentre/events/meetings/2015/un-sustainable-development-summit/en/>

LEGAL: Enforcement

Border Force (formerly the UK Border Agency) regularly undertakes enforcement action to ensure that those who employ non-EEA fishers do so legally. Border Force patrol UK waters, monitoring vessels, gathering information and intervening when appropriate and necessary. Border Force officers are concerned primarily with enforcement of the immigration rules and do not have enforcement powers in areas such as employment rights or health and safety, but if they come across such conditions, they will draw them to the attention of the appropriate enforcement officials in other agencies, such as the Maritime and Coastguard Agency and other agencies who enforce rules on employment rights, the minimum wage and health and safety conditions. Law enforcement and regulatory bodies across the UK will work together where there is any suspicion that there may be victims of Modern Slavery on board a vessel. The UK Modern Slavery Act 2015 created new protections for victims, as well as specific provisions to enable police and Border Force to act where it is suspected that human trafficking or forced labour is taking place on board vessels at sea.

Border Force

Border Force is a law enforcement command within the Home Office to secure the UK border by carrying out immigration and customs controls for people and goods entering the UK. New powers to strengthen coastal security were announced in May whilst aimed at smugglers and preventing illegal entry into the UK, Border Force is setting up maritime co-ordination hubs in Cornwall, the Thames Estuary and the Humber. These hubs will see Border Force building greater partnership working with law enforcement and maritime partners, improving intelligence and creating a more flexible response team to address the threats identified. The hubs will also enable Border Force to increase its presence at smaller ports and to deploy officers quickly across the coastline where they are required.

See: <https://www.gov.uk/government/organisations/border-force>

National Crime Agency (NCA)

The NCA has a wide remit to tackle serious and organised crime, strengthen UK borders, fight fraud and cyber crime, and protect children and young people from sexual abuse and exploitation. It provides leadership in these areas through organised crime, border policing, economic crime and CEOP commands, the National Cyber Crime Unit and specialist capability teams. Their remit is wide but they cover the seafood sector.

See: <http://www.nationalcrimeagency.gov.uk/about-us>

- **Human Trafficking and Fishing - Ten Years of Hard Learnt Lessons. National Crime Agency.**

See: http://www.seafish.org/media/1144329/clgfeb2014_nca_humantraffickingandfishing.pdf
http://www.seafish.org/media/1643064/seclg_july2016_nca.pdf

UK Human Trafficking Centre (UKHTC)

The UK Human Trafficking Centre (UKHTC) is part of the Organised Crime Command in the NCA. It works in a coordinated way within the UK and internationally. Their work to combat human trafficking involves a wide range of partners and stakeholders to protect the public, target the traffickers and reduce the harm caused by human trafficking. The UKHTC's partners include police forces, the Home Office and other government departments, Border Force, the Gangmasters Licensing Authority, international agencies, non-governmental organisations (NGOs) and many charitable and voluntary expert groups.

See: <http://www.nationalcrimeagency.gov.uk/about-us/what-we-do/specialist-capabilities/uk-human-trafficking-centre>

UK Visas and Immigration (UKVI)

UK Visas and Immigration decides who has the right to visit or stay in the country.

See: <https://www.gov.uk/contact-ukvi/overview>

LEGAL: Reporting

How to report

If you think you've identified a trafficker or illegal gangmaster, or think you work with or employ someone who may be a victim of Modern Slavery or forced labour, or are a victim:

- If it's an emergency, always phone 999
- For non-emergencies, phone 101 or Crimestoppers anonymously on 0800 555 111
- or phone the Modern Slavery helpline 0800 0121 700 24 hours a day. Calls can be made anonymously. Free from landlines and most mobile phones
- or fill in a quick and simple online form <https://modernslavery.co.uk/contact.html>

See: <https://modernslavery.co.uk/contact.html>

See: Modern Slavery: A briefing for the fishing industry

https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/380511/FactsheetFishing.pdf

The National Referral Mechanism (NRM)

The NRM is the process by which potential victims of Modern Slavery are identified, referred, assessed and supported by the Government of the United Kingdom. This process allows the police to gather evidence through the Human Trafficking Centre. Only some agencies can refer individuals who they think may be victims of Modern Slavery to the Competent Authorities (CA), they are called 'First Responders'. First Responders include: UK Police Forces, National Crime Agency (NCA), Home Office, Border Force, Local Authorities, Children's Services, Gangmasters Licensing Authority (GLA), and designated NGOs (i.e. the Salvation Army, Barnardo's, Unseen). The Competent Authorities are: UK Human Trafficking Centre (UKHTC) and Home Office UK Visas and Immigration (UKVI).

The NRM is a three-stage process:

1. The First Responder refers the potential victim into the NRM. After spotting the signs of Modern Slavery (identification), the First Responder makes the decision to refer a potential victim. The First Responder has an interview with the individual to complete a referral form. The form is firstly a series of tick boxes followed by space for more details. An adult has to give consent with a signature. The form is sent to the UK Human Trafficking Centre which forwards it to the appropriate Competent Authorities (CA).

2. The initial filter is a reasonable grounds test. Then, the CA have five working days to decide whether the individual has reasonable grounds for being considered as a victim of Modern Slavery. In other words, a positive decision will be made if the CA can say 'I suspect but I cannot prove'. If the person receives a positive decision, they will be eligible for support during 45 days, while a conclusive decision is taken. If it is decided by the CA that the person was not trafficked nor is a victim of Modern Slavery, and there are no other circumstances that would give them a right to live in the UK, they will be offered support to voluntarily return to their country of origin. The person can also be offered support to return to their country if they have been trafficked or are a victim of Modern Slavery and do not wish to stay in the UK.

3. This leads to a conclusive decision. Once a positive first decision has been made, the individual is granted a 45 day reflection and recovery period (NOTE: support is not intended to provide rehabilitation). The person is given safe accommodation as well as psychological and physical support. The victim will decide if whether or not he/she will report to the police and collaborate with their investigation. However, assistance provided to victims is not conditional on the victim's willingness to act as a witness. Note that the individual cannot be removed from the United Kingdom during this period of time. Also during these 45 days, the CA agrees whether there are sufficient grounds to decide that the individual is a victim of Modern Slavery.

See: <http://www.nationalcrimeagency.gov.uk/about-us/what-we-do/specialist-capabilities/uk-human-trafficking-centre/national-referral-mechanism>

See: http://www.unchosen.org.uk/wp-content/uploads/2016/07/nrm_factsheet_16_final.pdf

SUPPORT: The Seafish Responsible Fishing Scheme

As well as complying with the legal requirements there are now voluntary initiatives to help improve the conditions on board fishing vessels for all commercial fishers.

The Seafish Responsible Fishing Scheme (RFS) is a voluntary vessel-based programme certifying high standards of crew welfare and responsible catching practices on fishing vessels. Established in 2006, the scheme underwent a complete review in 2014 and was formally re-launched to the UK fleet in January 2016. The revised RFS, which has been modified in accordance with the internationally recognised accreditation standard ISO 17065, now incorporates social responsibility into its scope of five core principles: Safety, Health and Welfare, Training and Development, the Vessel and its Mission, Care of the Catch and Care for the Environment. Major UK retailers have made commitments to feature the RFS within both their UK and International sourcing policies.

The RFS will enable seafood buyers to source seafood that has been independently certified as having been harvested to industry-agreed best practice standards, on vessels where crew health, safety and welfare, as well as quality and environmental impact, are of paramount importance. The RFS is complementary to existing fishery and processing standards and there are plans to develop an RFS Chain of Custody Standard to protect the provenance of RFS certified seafood through the supply chain.

The RFS Standard includes very clear crew welfare and integrity clauses. In particular:

- The applicant shall have a policy and process in place to ensure that all crew members (both employed and share fishers) are practically permitted freedom of movement on and off the vessel when it is in port. In particular, that all crew have access to recreational and welfare services.
- The applicant shall only employ or recruit crew with a legal right to work and with the correct certification, documentation/visa in the country they are employed or contracted in.
- The applicant shall have an accessible Human Rights policy statement committing them to state that the decision of all the crew to join or leave their vessel is freely made by any employed or share crew member to mitigate the risk of forced or trafficked labour being employed or recruited.
- The applicant shall demonstrate by documented recruitment records or employment contracts that no forced, bonded, or involuntary prison labour is used on the vessel.
- The vessel applicant shall commit in this policy that they shall respect the rights of any employed and share crew to be able to have 'Freedom of association and the right to collective bargaining' or have a policy in place whereby at least one crew member shall be elected by the crew to represent them to the applicant.
- The applicant shall be capable of verifying that no employed or share crew member shall be required to lodge 'deposits' e.g. money or benefits in kind or their identity papers, with the skipper and all crew members are free to leave their employment after a notice period, as stated in a contract of employment or self-employed fisherman agreement.
- No crew under the age of 16 years old or child labour age as determined by national legislation shall be employed or recruited for work by an applicant.
- For all non EEA crew members, the applicant shall adopt and sign up to the requirements as stated in the MGN 413 Code of Practice for Employment of Non EEA Fishing Crew or to an equivalent national policy.
- The applicant shall be able to demonstrate how wages/share/pay/reward are paid and communicated to each type of crew member in the form of a signed contract of employment for employed fisherman or in an agreement with share fishers.

See: <http://www.seafish.org/rfs/>

SUPPORT: Organisations working to support the industry and improve governance, safety and welfare

There are a number of appropriate authorities, organisations and charities who are working to support the industry, and improve governance, safety and welfare within UK fishing.

Governance

Gangmaster Licensing Authority (GLA) soon to become the GLAA

The GLA operates throughout the UK and is a Non-Departmental Public Body. The GLA licences companies that supply labour (gangmasters) for agriculture, horticulture, shellfish gathering as well as all associated processing and packaging. Its main strategic priorities are to prevent worker exploitation, protect vulnerable people and tackle unlicensed and criminal activity. Under the Gangmasters (Licensing) Act (2004), it is illegal both to operate as, or employ the services of, an unlicensed gangmaster.

Under the Immigration Act 2016 the GLA will be transformed into Gangmasters and Labour Abuse Authority, with a broader remit and stronger powers to deal with labour exploitation across the entire UK labour market, with specialist officers to investigate cases of severe exploitation.

The GLAA is hoping to commence operations under its new name and terms in the autumn 2016.

See: <http://www.gla.gov.uk/>

Human Rights at Sea (HRAS)

This initiative was launched on 3 April 2014. It has been independently developed and concerns human rights in the maritime environment. It will be complementary to existing national and international human rights work relating to the maritime environment, including fully supporting established seafarers organisations and their initiatives. The work aims to mirror the General Principles of the 2011 United Nations Guiding Principles on Business and Human Rights, otherwise known as the “Protect, Respect and Remedy” Framework.

See: <https://www.humanrightsatsea.org/>

Health and safety

Health and Safety Executive (HSE)

The Health and Safety Executive (HSE) is Britain’s national regulator for shore-based workplace health and safety. It aims to reduce work-related death, injury and ill health. It does so through research, information and advice, promoting training; new or revised regulations and codes of practice, and working with local authority partners by inspection, investigation and enforcement.

- If you are working here from overseas, then this website will help you understand how British health and safety law protects you at work. If you employ migrant workers, it will help you make sure that you are looking after their health and safety properly.

See: <http://www.hse.gov.uk/migrantworkers/index.htm>

Maritime and Coastguard Agency (MCA)

The MCA is an executive agency of the Department for Transport that works to prevent the loss of life on the coast and at sea. It produces legislation and guidance on ship and fishing vessel safety and the health and safety of those working on commercial vessels (much of it parallel to the legislation HSE has on land), and provides certification to seafarers. MCA legislation and guidance includes measures for the safety of everybody in a vessel in UK waters; the safety of all seafarers on UK flagged vessels; making sure all equipment on UK vessels is fit for purpose; and making sure all seafarers on UK vessels have correct documentation.

See: <https://www.gov.uk/government/organisations/maritime-and-coastguard-agency>

See: http://www.seafish.org/media/1144326/clgfeb2014_mca_ilowork.pdf

Sea Fish Industry Authority (Seafish)

Under a Memorandum of Understanding with the Maritime and Coastguard Agency, Seafish is responsible for the development, delivery and certification of mandatory fishers safety training. Enforcement and certificate inspection is carried out by the MCA. Primary activities include the development and delivery of safety training courses for fishers, the survey and inspection of fishing vessels and new builds and the provision of information to fishing vessels operating in the vicinity of surface and subsea structures. Seafish also works in conjunction with the Marine Accident Investigation Branch (MAIB).

See: <http://www.seafish.org/industry-support/fishing/safety-at-sea>

Supporting the industry

Anglo North Irish Fish Producers' Organisation (ANIFPO)

The Anglo-North Irish Fish Producers Organisation (ANIFPO) provide a range of services to Northern Ireland's fishers. They specialise in quota management and representation (and increasingly marketing) for fishers. Members are based in Annalong, Ardglass, Kilkeel and Portavogie, the main fishing harbours along the County Down coast in Northern Ireland.

See: <http://anifpo.com/>

National Federation of Fishermen's Organisations (NFFO)

The NFFO provides a voice for fishers, irrespective of where on the coast they are based or the size of the vessel they operate. Given the scope of government to influence the conditions under which fishing vessels operate, it is vital that fishing vessels operators are able to ensure that their voice is heard and that they unite to ensure that their voice is heard clearly.

See: <http://nffo.org.uk/>

Northern Ireland Fish Producers' Organisation Ltd (NIFPO)

The NIFPO was formed in 1975 and now has approximately 150 member vessel, these vessel are predominately based in Northern Ireland but with vessel based throughout the UK and Ireland. The vessels range in size from 7m potters to 24m+ trawlers with the most important species for the local NI fleet being Nephrops.

See: <http://www.nifpo.co.uk/>

Scottish Fishermen's Federation (SFF)

SFF was formed in 1973 to preserve and promote the collective interests of Scotland's fishermen's associations. The Federation plays an active role in advancing the interests of Scottish fishers at national and international levels by lobbying government officials in Edinburgh, London and Brussels. The Federation also plays a key role in helping to inform: fisheries science; the management of the marine environment; inshore fisheries management; marine spatial planning; marine safety regulations and industry recruitment and training programmes.

See: <http://www.sff.co.uk/>

Scottish White Fish Producers Association

SWFPA represents around 200 vessels and 1,400 fishers. Members both own and crew a broad range of vessel size and type, from smaller inshore and scallop boats to trawlers, pair trawlers and modern prawn vessels. The role of the SWFPA is to be the voice of members in the political world, helping them practically and by planning and innovating for the future. The goal is to create and maintain resilient business and long-term stability so that members feel confident in planning forward.

See: <http://www.swfpa.com/>

- **Non-EEA crew. Scottish White Fish Producers Association.**

See: http://www.seafish.org/media/1144341/clgfeb2014_swfpa_noneeacrew.pdf

Seafish Seafood Ethics Common Language Group

Seafish supported the formation of a Seafood Ethics Common Language Group to bring together all sectors of the seafood supply chain to provide a collective response to growing concerns regarding unethical practices within the global seafood market.

See: <http://www.seafish.org/responsible-sourcing/discussion-forums/the-seafood-ethics-common-language-group>

Welsh Fishermen's Association

The Welsh Fisherman's Association is recognised as the national representative body of the Welsh fishing industry.

See: <https://welshfishermensassociation.wordpress.com/>

Welfare

Apostleship of the Sea

The Apostleship of the Sea serves seafarers from across the world, regardless of belief, nationality or race. In all the main ports in Great Britain their team of chaplains and volunteer ship visitors visit thousands of seafarers each year, meeting their needs through the provision of help, support and advice.

See: <http://www.apostleshipofthesea.org.uk/>

Fishermen's Mission

The Fishermen's Mission is a UK-based fishers charity that provides emergency support alongside practical, financial, spiritual and emotional care.

See: <http://www.fishermensmission.org.uk/>

- **Recent developments in UK Fishing. The Fishermen's Mission.**

See: http://www.seafish.org/media/1607499/seclg_feb2016_fishermensmission.pdf

Mission to Seafarers

The Mission's professional and voluntary teams of chaplains, ship-visitors and counsellors provide a global network of care and support, for day to day problems, and in emergencies, throughout 260 ports, across 71 countries. The charity is entirely reliant on voluntary donations to continue their discreet and effective justice and welfare work.

See: <http://www.missiontoseafarers.org/about-us>

International Labour Rights Forum (ILRF)

ILRF works with allies and networks around the world (labour unions, consumer activists, religious and community-based organisations, human rights organisations, and student groups) to demand dignity and justice for workers. The ILRF works with the Migrant Workers' Rights Network (MWRN).

See: <http://www.laborrights.org>

International Transport Workers' Federation (ITF)

ITF represents fishers working at sea and on land, as part of the supply chain by campaigning for better working conditions in an industry that can be harsh and oppressive to those working outside regulation.

See: <http://www.itfglobal.org/en/transport-sectors/fisheries/>

SUPPORT: International guidelines

There are a number of international guidelines that support basic human and labour rights principles across the whole fisheries sector that can be referred to.

FAO Code of Conduct for Responsible Fisheries

The Code recognises the nutritional, economic, social, environmental and cultural importance of fisheries and the interests of all those concerned with the fishery sector. Key clauses are:

- 6.17 States should ensure that fishing facilities and equipment as well as all fisheries activities allow for safe, healthy and fair working and living conditions and meet internationally agreed standards adopted by relevant international organizations.
- 8.1.5 States should ensure that health and safety standards are adopted for everyone employed in fishing operations. Such standards should be not less than the minimum requirements of relevant international agreements on conditions of work and service.
- 8.4.1 States should ensure that fishing is conducted with due regard to the safety of human life.....

See: <http://www.fao.org/docrep/005/v9878e/v9878e00.htm>

The International Labour Organisation (ILO)

The ILO is a specialist agency of the United Nations (UN).

- **ILO indicators of forced labour. 11 indicators**

See: http://www.ilo.org/wcmsp5/groups/public/---ed_norm/---declaration/documents/publication/wcms_203832.pdf

- **ILO Operational indicators of trafficking in human beings**

See: http://www.ilo.org/wcmsp5/groups/public/---ed_norm/---declaration/documents/publication/wcms_105023.pdf

UN Guiding Principles on Business and Human Rights and their Implementation in the Maritime Environment

The Guiding Principles on Business and Human Rights: Implementing the United Nations “Protect, Respect and Remedy” Framework are a set of 31 principles that were unanimously endorsed on 16 June 2011 by the Human Rights Council Resolution 17/4. They form a comprehensive, global reference point for understanding the respective duties and responsibilities of States and business for addressing business impacts on human rights. Human Rights at Sea have produced some guidelines on how these principles could be implemented across the maritime sector.

See: <https://www.humanrightsatsea.org/wp-content/uploads/2015/05/HRAS-UNGP-Report-2016-low-res-dps.pdf>

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*This is an information service provided by Seafish for industry and key stakeholders.
The views expressed are not necessarily the views of Seafish.*

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