
Voluntary Code of Practice for Employment of Non European Economic Area (EAA) Fishing Crew

Notice to all Owners, Skippers and Crew of Fishing Vessels

Summary

Under the direction of the FISG Health and Safety group this Marine Guidance Note aims to raise awareness to the voluntary Code of Practice produced by the Scottish Fishermen's Federation (SFF).

1. Introduction/ Background

- 1.1 The Fishing Industry Health and Safety Group which is largely made up of fishing industry representatives, is concerned at the recent incidents which have resulted in deaths whilst fishermen have been living onboard fishing vessels, and which have occurred whilst the vessel is alongside.
- 1.2 These incidents have mainly concerned those migrant workers who must reside on the vessel due to work permit restrictions, unless their permit allows them to come ashore or an Immigration Officer has granted shore leave. This then places a social responsibility on boat owners to provide for them properly.
- 1.3 Many of these vessels are not designed to be used for long periods of time and have very basic cooking , wash , heating and hygiene facilities which in turn has forced those who have to live aboard to "make do" and in some cases take undue safety risks.

2. Recognising the issues to be addressed

- 2.1 The MCA Fishing Industry Health and Safety Group acknowledges that the practice of living aboard these vessels is a reality, and this balanced with the recent deaths, have prompted the industry group to produce a Code of Practice for the Fishing industry to make reference to and follow, in the hope that in doing so, such needless deaths might be prevented.
- 2.2 The Code of Practice produced by SFF is found at Appendix A to this Marine Guidance Note.

3. Application

- 3.1 In relation to fishing vessels which operate wholly or mainly in UK territorial waters, the recently published UK Border Agency policy concession for non-EEA crew of such vessels specifies criteria relating to safety and safe accommodation while in port, which must be adhered to by non-EEA crew and their employers.

<http://www.ukba.homeoffice.gov.uk/sitecontent/newsarticles/2010/255022/07-fishermen>

3.2 In addition, you should follow all other relevant guidance contained in this document. UK Borders Agency is examining whether similar criteria should apply to the non-EEA crew of UK-based fishing vessels which operate wholly or mainly in international waters. In the meantime, they should nevertheless be accommodated in accordance with the guidance detailed in this document.

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SOCIAL AND PRACTICAL RESPONSIBILITY – A CODE OF PRACTICE FOR EMPLOYMENT OF NON-EEA FISHING CREW

Background :

The aim of this Code of Practice is to ensure consistency across the fleet and to act as a “check list” to avoid omissions.

It is not intended to be exhaustive or to replace other guidance available on safety and habitability. It is intended to be a live document, and aims to reflect change and experience.

INDEX

Section 1 : Responsibility for Safety

Section 2 : Training

Section 3 : Safety Alongside

3.1 Health and Safety policy

3.2 Risk Assessment

3.3 Shore Power

3.4 Alarms

3.5 Means of Escape

3.6 Fire Precautions

3.7 Alcohol

3.8 Smoking

Section 4 : Domestic Facilities

4.1 Accommodation

4.2 Ventilation, Lighting and Heating

4.3 Showering , Laundry and Sanitary Facilities

4.4 Cooking and Food

Section 5 : Recreational facilities & liaison with Local
Authorities and Organisations

Section 6 : Medical / Dental Facilities

Section 7: Conditions of Employment

Section 8: Adequate wet weather gear and clothing

Section 9: Legal Requirements and Discipline

SECTION 1 : Responsibility for Safety

Responsibility for safety rests with the owners. Matters of day to day management and control, rest with the skipper (who may of course be the owner or co-owner). However, this does not remove the responsibility each crew member has to himself and his shipmates.

To meet this, each crew member must hold current MCA recognised certificates in :

- sea survival
- fire fighting
- first aid and
- safety awareness

In the event of an accident there will be the standard investigations by the legal authorities. If fault or shortcomings are found, legal responsibility will be upheld, and in the event of offences having taken place, legal action may be taken .

In addition to the guidance below, the owner and crew must be familiar with the vessel layout and safety precautions including escape routes and safety systems.

A safety induction must be carried out for each crew member on arrival and a list be maintained, signed by each crew member to verify that they have received both their induction and a full explanation of the vessel's risk assessment.

A carefully conducted **risk assessment** will highlight the dangers to the safety of you and your crew and allow preventative action. It makes every good sense to ensure that yours is done thoroughly and in date. It should be revised when any incident occurs, and in any case, annually. (See also **Safety Alongside – Section 3**).

SECTION 2 : Training

Foreign crew will arrive from their home country with certification which may, or may not have MCA recognition. This must be checked and, in the case of those from the Philippines, there is no satisfactory equivalent of the Safety Awareness Course. It will therefore be necessary to ensure that each person has completed the course before their first trip. The GTAs will assist in this matter (contact details can be obtained from your Fishing Federation).

In any case, on the occasion of the first trip with new crew, a vigilant assessment of level of competence makes good sense.

SECTION 3 : Safety Alongside

This has been the most visible site of problems in recent times, with some very tragic consequences. The MCA has issued an initial guidance note under the title "Dead ships can lead to dead fishermen". It is reproduced at Annex 1, and the contents are covered within the relevant sections of this Code of Practice.

3.1 Health and Safety Policy :

Where more than 5 workers are employed, a written statement of the employer's general policy with regard to health and safety is required, including the arrangements for implementing the policy, which should be brought to the notice of the workers.

3.2 Risk Assessments:

All vessels of whatever size are required to conduct a risk assessment. Both the Health and Safety Policy and Risk Assessment are well covered in the Seafish publication "Fishing Vessel Safety Folder" (Issue 2, May 2007) and this document is commended to all skippers. It covers all aspects of safety, including the physical arrangements onboard, safety equipment and risk assessment. This can be obtained from Seafish by telephoning 0131 524 8678 (or from their website : www.seafishmarineservices.com/safety.htm).

Other useful information may be found in the Fishermen's Safety Guide and the Risk Assessment leaflet which can be obtained from the MCA through the following contact:

Contact the MCA Distributors for your free copy :
EC GROUP – Tel 0845 6032431 or email mca@ecgroup.co.uk

Fishermen's Safety Folder – Ref: MCA/034
Fishermen's Safety Guide Folder – Ref: MCA/035
Risk Assessment leaflet – Ref: MCA/113

A carefully conducted risk assessment will highlight dangers to the safety of you and your crew, and allow preventative action. It makes good sense to ensure that yours is completed thoroughly and in date. It should be revised when any incident occurs and in any case, annually. The safety folder can be used to guide the risk assessment process; however in addition, the following issues should also be addressed:

3.2.1 Shore Power:

If the boat is to rely on shore power, is it suitable and sufficient for both safety and domestic systems? It should be safely installed with an appropriate circuit breaker.

- Does it have sufficient reliable capacity to support the larger power using services, such as heating, lighting and ventilation all working together?
- Is the shore power supply sufficient to run a fire pump and the supply fire and gas detection systems?
- Can the live on board crew change over onto ship's power?
- If the shore power fails when the crew are asleep, will they know?

3.2.2 Alarms:

- Are the fire detection systems and other safety alarms working *and do they continue to work if shore power used?*
- Do the alarms sound loud and clear in the accommodation and sleeping cabins? *Consider fitting supplementary smoke detectors.*
- Is a mobile phone available to them if they are alone onboard?
- Are the crew fully aware of and familiar with emergency escape routes from the accommodation spaces?
- Any other alarms fitted such as; carbon monoxide; gas; high level bilge; are they operational?
- Can someone outside the vessel raise the alarm, if the crew are sleeping below deck?

3.2.3 Means of Escape

- Are the escape routes clearly marked and well lit?

- Do all sleeping cabins have at least two separate means of escape to open deck?
- Is there a safe means of escape to shore?
- If a fire in one location could block the escape, is an alternative available?
- Are all doors and hatches in good working order and can they be easily opened, at least from the inside?
- Are fire doors self-closing or kept closed?

3.2.4 Fire Precautions:

- Have heaters and cooking appliances been checked and are they safe to use in the accommodation?
- If LPG heating is used is it in date for maintenance and test, and in compliance with MGN 312 (storage of gas and necessary ventilation). Consider fitting supplementary Carbon Monoxide alarms in accommodation areas.
- Are other heaters clearly away from combustible materials?
- Are fire dampers including external ventilation flaps in working order?
- Are all electric appliances safe, with correct wiring, fuses (e.g. radios, TVs, toasters, kettles, phone chargers etc)?
- Have the crew been familiarised with these basic safety precautions, including their escape routes and safety systems?
- Have the crew been instructed in how to start a fire pump?
- Are the extinguishers and other fire fighting equipments and devices in date for maintenance and test? *Do all crew members know their whereabouts and how to work them?*

3.2.5 Alcohol:

- A source of problems has been the occasional excessive use of alcohol. Owners and skippers should consider making an alcohol policy. Realistically, there is little place for alcohol onboard. The standard contract referred to in Section 10 headed 'Discipline', notes drunkenness as a standard offence, listing 'drunk while on duty;
- creating trouble on board due to intoxication; and failure to perform assigned duties due to intoxication' constitutes misconduct which attracts penalties ranging from warning and reprimand up to dismissal. You should also be aware of the Customs regulations in respect of goods liable to duty.

3.2.6 Smoking:

- Smoking in the accommodation is statistically the most common cause of fires; owners and skippers should consider enforcing a smoking policy to lessen the risk. *Smoking in the cabin is not recommended.*

SECTION 4 : Domestic Facilities

This is an area of potential difficulty alongside and proper provision is required. The following matters must be addressed:

4.1 Accommodation :

Accommodation should be maintained in a clean and habitable condition. Individual sleeping berths with suitable bedding should be provided for each fisherman: berths should be dry, with reasonable comfort and privacy.

4.2 Ventilation, Lighting and Heating:

Does the boat's ventilation, lighting and heating work properly when on shore power, if used?

Are the vents from the sleeping cabin open and fully operational? Air vents must not be blocked up.

4.3 Showering, Laundry and Sanitary Facilities:

- The crew should have provisions for showering and washing clothes whilst alongside. If it is impossible to provide these to a realistically adequate standard for living onboard while alongside, the location of local facilities and suitable access to them should be provided.
- Adequate sanitary facilities are clearly essential, and provision must be made either onboard or immediately nearby.
- Care should be taken to ensure that use of onboard facilities do not breach harbour regulations.

Harbour Masters, local Associations and the Fishermen's Mission have all engaged to a greater or lesser degree to assist with provision of these facilities at most ports. A list of contacts is provided at Annex 2 and 3.

4.4 Cooking and Food provision:

- Cooking facilities. If galley equipment is electrical, it must be able to operate on shore power if this is to be used. If LPG, is it in date for maintenance and test.
- Food provision – must be suitable and sufficient, and provided without charge to the crew.
- Cold fresh drinking water and hot water must be available.
- Food storage and cooking facilities should be suitable and sufficient.

SECTION 5 : Recreation Facilities and Liaison with Local Authorities and Organisations

Shore leave and access to recreational and communication facilities in port should be facilitated.

There have been some very good examples of welcome and kindness to non-EEA crew members by the local communities where their boats are based. This is to be much encouraged, enhancing as it does the lives of foreign crew and also the communities who welcome them.

The Fishermen's Mission (Royal National Mission to Deep Sea Fishermen) has been particularly active in this matter and the industry's thanks go to the organisation. Any shore leave away from the Vessel for non-EEA crew must be authorised by the UK Border Agency. If any such member of your crew is found onshore other than whilst engaged directly in servicing the vessel, they may be detained and returned to their home country at your expense.

SECTION 6: Medical and Dental Facilities

All crew should have access to medical care both on board and ashore. Medical care should be provided without charge to the crew.

SECTION 7: Conditions of Employment

- All crew should be paid in full at least monthly, and must be in an income compliant with the UK minimum wage regulations, and relevant tax and National Insurance Regulations.

- Repatriation must be paid for by the employer.
- All crew must have adequate minimum rest.
- Appropriate working clothes and personal protective equipment must be provided, without charge to individual fishermen.

SECTION 8: Adequate Foul Weather Gear and Warm Clothing

Given the climate in the countries of origin of some foreign crew, it will come as no surprise that most will turn up badly (or not at all) provided for without oilskins and suitable warm clothing. Consideration should be given to provision of this.

SECTION 9: Legal Requirements and Discipline

One point to take special account of concerns the designation of the vessel in which incoming non-EEA crewmen will work. This can not be changed at will. It is understood that changes are not forbidden, but must be by arrangement with the UK Border Agency; it is self-evident the UK Border Agency will require to know where non-EEA crewmen are working and to be assured that the conditions of the Seamen Control Regulations are met at all times.

SECTION 10: Discipline

Each non-EEA crewman will arrive under the conditions of a contract. The “Standard Terms and Conditions Governing the Employment of Filipino Seafarers onboard Ocean-Going Vessels” is an example of such a contract and provides protection for both the employer and employee.

It goes without saying that the terms and conditions of the contract should be fully understood by both parties. One matter worthy of specific emphasis is the avoidance of the possibility of desertion; this is potentially most harmful, taking the individual’s status from a seaman on a transit visa to an illegal immigrant.

The standard contract also notes drunkenness as a standard offence, sub-dividing into ‘drunk while on duty’; ‘creating trouble on board due to intoxication’; and ‘failure to perform assigned duties due to intoxication’ as misconduct attracting penalties ranging from warning and reprimand up to dismissal.

“DEAD SHIPS” CAN LEAD TO DEAD FISHERMEN

Three fishermen recently died in an accident while living on board a fishing vessel alongside in port. The MCA is extremely concerned that safety systems and precautions on board, intended for use at sea, were proved to be inadequate for use when the vessel's own power generation systems were shut down (“dead ship”). A full investigation is being carried out by the Marine Accident Investigation Branch, but it is considered necessary to draw these matters to the immediate attention of owners, skippers, crews, agents and port authorities.

Risk assessments should be carried out on each vessel to address the particular risks of people living on board. The MCA will be carrying out inspections of vessels in port and where conditions on board are clearly hazardous to health and safety, then appropriate enforcement action will be taken. The main questions which need to be answered are;

Raising the Alarm:

1. Is the fire detection system working? Does it work when on shore power? Does the alarm sound in the accommodation and sleeping cabins ? (supplement with smoke detectors if necessary). What about other alarms such as, carbon dioxide, liquefied petroleum gas (LPG) and high level bilge?
2. Can someone outside the vessel raise the alarm, if crew are sleeping below deck? Do the crew know how to call for outside help (e.g. dial 999 or contact the harbour master, is there a mobile phone in the cabin)?

Means of Escape:

3. Are the escape routes clearly marked and well lit?
4. Do all sleeping cabins have at least two separate means of escape to open deck?
5. Is there a safe means of escape to shore?
6. If a fire in one location could block the escape, is an alternative available?
7. Are all doors and hatches in good working order and can be easily opened, at least from the inside?
8. Are fire doors self-closing or kept closed (Note: unapproved holdbacks must be removed – only electromagnetic holdbacks linked to the fire detection system will be acceptable)?

Shore Power:

9. Is the vessel on shore power? If so, are any safety systems (e.g. fire/gas detection) not working and are there alternatives?
10. If the vessel is relying on shore power for basic safety systems, is it safely installed with appropriate circuit breaker and sufficient for the necessary services all working together, for safety as well as any additional loads for domestic services; such as heating, lighting and ventilation? Is it reliable? If the shore power fails when the crew are asleep, will they know?

Fire Precautions:

11. Are heaters safe?
12. Wherever possible LPG and diesel open flame or catalytic heaters should be avoided. Where necessary, is the installation in compliance with MGN 312 (storage of gas and mechanical ventilation) ? Have heaters been regularly serviced? Are gas and carbon monoxide detectors provided?

13. Are other heaters clearly away from combustible materials?
14. Is the ventilation working ? (check that the crew have not tried to block them up. Are fire dampers including external ventilation flaps in working order?
15. Are unapproved cooking or heating appliances being used? (e.g. some crew have been found cooking with portable gas cookers in their cabins). Free standing heaters should not be used.
16. Are all electric appliances safe, with correct wiring, fuses (e.g. radios, TVs, toasters, kettles, phone chargers etc.)
17. Have the crew been familiarised with these basic safety precautions, including their escape routes and safety systems?
18. Are fire extinguishers available, serviced and ready for immediate use?

Harbour Master Offices

Aberdeen Harbour Board
Tel: +44 (01224) 597000

Arbroath
Tel: +44 (01241) 872166

Buckie Harbour Masters Office
Tel: +44 (01542) 831700

Christchurch
Telephone no: +44 (01202) 590059

Eyemouth Harbour Office
Tel: +44 (018907) 50223

Falmouth
Tel: +44 (01326) 312285/314379

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Tel :+44 (01726) 832471/2

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Tel: +44 (01346) 515858

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Tel: +44 (1720) 422768

Kirkcudbright Harbour Office
Tel: +44 (01557) 331135

Kirkwall Harbour Office
Tel: +44 (01856) 872292

Lerwick Port Authority
Tel: +44 (01595) 692991

Looe
Tel : +44 (01503) 262839

Lossiemouth Harbour Office
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Padstow
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Tel: +44 (01736) 66173

Peterhead Port Authority
Tel: +44 (01779) 483600

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Telephone no: +44 (01202) 440210

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Telephone no: +44 (01305) 824044

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Tel : +44 (01736) 795018

St Mawes
Tel : +44 (01326) 270553

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Telephone no: +44 (01929) 426830

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Tel: +44 (01752) 813658

Truro
Tel: +44 (01872) 78131

West Bay
Telephone no: +44 (01308) 423222

Weymouth
Telephone no: +44 (01305) 838423

Wick Harbour Office
Tel: +44 (01955) 602030

Watchtowers:-

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Peterhead Harbour: 01779 483600

Aberdeen Harbour: 01224 597000

Macduff Harbour: 01261 832236

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Website : <http://www.ukba.homeoffice.gov.uk/workingintheuk/>

Phone: 0870 606 7766 Opening Hours: Mon to Thurs 0900 to 1645. Fri 0900 to 1630.

Textphone: 0800 389 8289

Email: UKBApublicenquiries@ukba.gsi.gov.uk

Address: UK Border Agency,
Lunar House,
40 Wellesley Road,
Croydon,
Surrey
CR9 2BY

Work permits customer contact centre :

The customer contact centre can answer enquiries about residual work permits, the Highly Skilled Migrant Programme applications, as well as general enquiries about the Worker Registration Scheme A2.

Please be aware that the customer contact centre is currently experiencing very high call demand and therefore you may experience difficulties in contacting them.

Full information on all of our schemes and programmes is available on their website.

Phone: 0114 207 4074 Opening Hours: Mon to Fri 0900 to 1700.

Fax: 0114 207 5861

Address: Customer Contact Centre,
UK Border Agency,
PO Box 3468,
Sheffield,
S3 8WA

EEA residency enquiries :

You can contact the European Enquiries Contact Centre if you are a national of the European Economic Area (EEA) or Switzerland

Phone: 0845 010 5200 Opening Hours: Mon to Fri (excl public holidays) 0900 to 2100.

Email: UKBAeuropeanenquiries@ukba.gsi.gov.uk