
STATUTORY INSTRUMENTS

2018 No. 1106

**The Merchant Shipping (Work in
Fishing Convention) Regulations 2018**

PART 4

Repatriation

Duty to repatriate fishermen

14.—(1) Subject to regulation 16, a fishing vessel owner must make such provision in accordance with this Part as is necessary for the repatriation of a fisherman as soon as is reasonably practicable in any of the following cases—

- (a) where the fisherman's work agreement expires;
- (b) where the fisherman's work agreement has been terminated by the fishing vessel owner for justifiable reasons;
- (c) where the fisherman's work agreement has been terminated by the fisherman for justifiable reasons;
- (d) where the fisherman is no longer able to carry out the fisherman's duties under the fisherman's work agreement or cannot be expected to carry them out in the following circumstances—
 - (i) the fisherman has an illness, injury or medical condition which requires their repatriation when found medically fit to travel;
 - (ii) shipwreck;
 - (iii) the fishing vessel owner is not able to fulfil its legal or contractual obligations to the fisherman following insolvency, the sale of the fishing vessel or a change in the fishing vessel's registration; or
 - (iv) the fishing vessel is bound for a war zone to which the fisherman does not consent to go;
- (e) where the fisherman has completed the maximum period of service on board following which the fisherman is entitled to repatriation in accordance with the fisherman's work agreement, and, in any event, 12 months after the fisherman joined the fishing vessel; and
- (f) where the fisherman's work agreement is terminated pursuant to an order of a court or tribunal.

(2) A breach of paragraph (1) is an offence by the fishing vessel owner.

Place for return

15.—(1) Where there is a duty on a fishing vessel owner to provide for the repatriation of a fisherman under regulation 14, the fisherman is entitled to repatriation to the destination provided

for in the fisherman's work agreement, or such other place as may subsequently be agreed between the fisherman and the fishing vessel owner.

(2) If the fisherman's work agreement does not identify a destination, and there has been no agreement between the fisherman and the fishing vessel owner as to the destination, the fisherman is entitled to repatriation to the fisherman's choice of the following destinations—

- (a) the place at which the fisherman entered into the fisherman's work agreement; or
- (b) the fisherman's country of residence.

Scope of duty to repatriate

16. Where there is a duty on a fishing vessel owner to provide for the repatriation of a fisherman under regulation 14, that duty ends when—

- (a) the fisherman is repatriated in accordance with regulation 14;
- (b) the fishing vessel owner makes reasonable arrangements for repatriation which are unsuccessful because of the fisherman's unreasonable conduct;
- (c) the fishing vessel owner has used reasonable endeavours to contact the fisherman for a period of three months or more, but has been unable to make such contact;
- (d) the fisherman confirms in writing to the fishing vessel owner that repatriation is not required; or
- (e) the fisherman is dead.

Duty pending repatriation

17.—(1) A fishing vessel owner to which the duty in regulation 14 applies must make such provision as is necessary for the fisherman's relief and maintenance pending repatriation.

(2) The fishing vessel owner must have regard to the fisherman's personal circumstances and requirements when determining what provision is required under paragraph (1).

(3) Without prejudice to the generality of paragraph (1) the provision for relief and maintenance must include—

- (a) food;
- (b) potable water;
- (c) clothing;
- (d) accommodation;
- (e) toiletries and other personal necessities;
- (f) surgical, medical, dental or optical treatment (including the repair or replacement of any appliance) for any condition requiring immediate care;
- (g) in cases where legal aid is unavailable or insufficient, reasonable costs for the defence of the fisherman in any criminal proceeding in respect of any act or omission within the scope of the fisherman's work agreement, being proceedings where neither the fishing vessel owner nor an agent of the fishing vessel owner is the complainant; and
- (h) sufficient money to meet any minor ancillary expenses necessarily incurred or likely to be so incurred by the fisherman for his relief and maintenance.

(4) The provision to be made by a fishing vessel owner in accordance with paragraph (1) must include—

- (a) the repayment of expenses incurred in bringing a fisherman ashore and maintaining him until he is brought ashore; and

- (b) the payment of the expenses of the burial or cremation of a fisherman who dies before he can be repatriated.
- (5) The duty in paragraph (1) ends when the duty in regulation 14 ends.
- (6) A breach of paragraph (1) is an offence by the fishing vessel owner.

Prohibition on recovering costs from a fisherman

18.—(1) Subject to paragraph (2), a fisherman's work agreement is void to the extent that it provides that a fisherman must make a payment to the fishing vessel owner in respect of either repatriation costs or relief or maintenance costs.

(2) A fisherman's work agreement may provide that the fisherman must reimburse repatriation costs where the agreement is terminated because of the fisherman's serious misconduct.

(3) If a fisherman's work agreement contains provision described in paragraph (2) and that obligation arises, a deduction equivalent to those costs may be made from the wages or other payments due to the fisherman under that agreement.

(4) If a fisherman's work agreement does not contain provision described in paragraph (2), the fishing vessel owner may recover the costs mentioned in paragraph (1) (or damages in respect of such costs) where the agreement is terminated because of the fisherman's serious misconduct.

Secretary of State functions in the event of fishing vessel owner default

19.—(1) If the fishing vessel owner of a United Kingdom fishing vessel fails to make the provision required under regulation 14 or 17, the Secretary of State must make the required provision (or secure that it is made) and may recover the costs incurred from the fishing vessel owner as a civil debt.

(2) If the fishing vessel owner of a fishing vessel which is not a United Kingdom fishing vessel fails to make the provision required under regulation 14 or 17 the Secretary of State may make the required provision (or secure that it is made) and may recover the costs incurred from the fishing vessel owner as a civil debt.

(3) Subject to paragraph (5), the costs which the Secretary of State may recover under paragraphs (1) and (2) include—

- (a) costs incurred by the Secretary of State in making the required provision (or securing that it is made); and
- (b) costs incurred by the Secretary of State in reimbursing another person (including a State) which has made the required provision (or having secured its provision), whether or not the Secretary of State has requested or required them to do so.

(4) Subject to paragraph (5), if a fishing vessel owner of a United Kingdom fishing vessel fails to make the provision required under regulation 14 or 17 and the fisherman incurs costs in making the required provision (or securing that it is made), the fisherman may recover the costs from the fishing vessel owner as a civil debt.

(5) The costs incurred by the fisherman which are referred to in paragraph (4)—

- (a) may not be recovered by the fisherman under paragraph (4) if they have been recovered by the Secretary of State under paragraph (1); and
- (b) may not be recovered by the Secretary of State under paragraph (1) if they have been recovered by the fisherman under paragraph (4).