



An Coimisiún um Chaidreamh san Áit Oibre
Workplace Relations Commission



Employment Guide for Fishing Vessel Owners

This Guide is for information purposes only.

This is not a legal document nor a legal interpretation of the legislative provisions.

The contents do not constitute legal advice, are not intended to be a substitute for legal advice and should not be relied upon as such. You should seek legal advice or other professional advice in relation to any particular matters you or your organisation may have.

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Introduction

The Workplace Relations Commission (WRC) has responsibility for, among other matters, providing information relating to, and the enforcement of compliance with, employment law rights and obligations.

This WRC Guide contains summary information and guidance on a range of matters relating to the employment/engagement of fishers on Irish-registered fishing vessels, including terms of employment, permission for non-EEA fishers to work, pay, record keeping, working time and rest breaks, health and safety. The WRC hopes that this and other outreach measures and initiatives will enhance compliance and knowledge of rights and obligations within this important industry.

The Guide draws employers' attention to the importance of keeping and maintaining all records necessary to show compliance with employment legislation, including written terms of employment, a Statement of 'Core Terms' of Employment, Payroll details, evidence that the employer has provided payslips to employees, hours of work and breaks for each employee, holiday and Public Holiday entitlements and employment permissions or evidence that permissions are not required.

This Guide will be updated from time to time to reflect any relevant changes to employment legislation and other relevant legislation and practices.

Employees and Share Fishers

Employment legislation generally applies to persons engaged on a contract of service (employees) rather than to share fishers who are paid a share of the proceeds of the catch and are considered, therefore, to be engaged on the basis of a contract for services.

However, working time legislation governing fishing vessels (see below) applies to both employees and share fishers.

List of Employees/Crew List

Regulations¹ made by the Minister for Transport provide that the master of a fishing vessel must carry on board a crew list which must be communicated ashore to an appropriate person such as the owner, company or family member.

Under section 405 of the Merchant Shipping Act 1894, a fishing vessel, being a trawler of twenty-five tons tonnage or upwards with a crew comprised exclusively of share-fishers, is required to carry a list of crew and to communicate the crew list to the Mercantile Marine Office.

The above Crew Lists are generally accepted by WRC Inspectors for the purposes of determining the names and other details of persons employed/engaged on fishing vessels.

¹ European Union (International Labour Organisation Work in Fishing Convention) (Crew List and Fisherman's Work Agreement) Regulations 2020 (S.I. No 333 of 2020)

Permission to Work

Employment Permits

Non-EEA² nationals, unless exempted, must have an employment permit to work in Ireland. Employment permits are issued by the Department of Enterprise, Trade and Employment. Workers on Irish-registered fishing vessels are not currently an eligible category of worker for the purposes of the issue of employment permits.

Atypical Worker Permissions

However, non-EEA fishers may, subject to the issue of an **Atypical Worker Permission for non-EEA Crew in the Irish fishing fleet**, work as employees on certain Irish-registered fishing vessels (i.e. fishing vessels of more than 15 metres in length overall which operate in the Polyvalent, Beamer and Specific segments of the Irish Fishing Fleet). These permissions are specific to a fishing vessel licence holder and only apply to the fishing vessels named in the permission.



Applications for permission under the Atypical Working Scheme for non-EEA workers in the Irish Fishing Fleet should be made through the Department of Justice online portal³.

Applications for a permission under the Scheme will only be accepted from outside of the State, while applications to renew a crew members permission under the Scheme, or to change employer can be made from inside the State but must be made before the fisher's current permission expires.

In order to qualify for permission under the Atypical Working Scheme, there must be a contract of employment in place between the employer (vessel owner) and worker (non-EEA crew member) which would include a number of minimum conditions.

The contract must be certified by a practicing Solicitor and lodged with the Central Depository (CDPA) for Sea-Fishing Boats at the National Seafood Centre, Clonakilty, Co Cork.

² The EEA comprises the Member States of the European Union together with Iceland, Norway and Liechtenstein

³ [ISD Online Forms \(jahs.ie\)](https://www.jahs.ie)



SEIRBHÍIS EADÓIRSEACHTA AGUS INMIRCE NA hÉIREANN
IRISH NATURALISATION AND IMMIGRATION SERVICE (INIS)

TELEFÓN: TELEPHONE: 011 816 700 E-MAIL: 198.51.500 - BROSCHÜRE: MAIL - info@justice.ie
To: XXXXX XXXXX
XXXXXXXXXX
XXXXXXXXXX
XXXXXXXXXX

Person ID: 123456-[] Application No: 123456-ATWS-[]

ATYPICAL WORKING SCHEME LETTER OF APPROVAL (CREW MEMBER)

Name of Applicant (as on Passport): XXXXX XXXXXXXX
Date of Birth: xx/xx/xxxx
Nationality: XXXXXXXX
Name of Irish based Employer: XXXXXXX XXXXXXX
- Contact Name: XXXXXXX XXXXXXX
- Contact Phone Number: xx XXXXXXXX

The Minister for Justice and Equality has approved your application for permission to enter the State for the purpose of working as a crew member according to the conditions of this Scheme and as summarised below. All parties are accountable for compliance with these conditions and failure to do so may result in this permission being withdrawn.

Summary of Conditions of Contract with Irish based Employer

Reference Number of Contract: CDPA.....
Duration of Contract (in months): 12 months from date of registration with Garda National Immigration Bureau – Stamp 1 to be placed in passport
Location of Employment in the State (Vessel / Home Port):
Pattern of Travel to and from the State: Required to register with the Garda National Immigration Bureau

You should ensure that this Letter is available for inspection by the Immigration Officer at the port of entry to the State each time entry is sought within the time frame of the permission granted.

[As you require an Entry Visa, you should ensure that a copy of this Letter is included with other required supporting documentation when making an application for an Entry Visa.]

[As your permission to remain in the State is for more than 90 calendar days (consecutive), you are required to register at your nearest Registration Office and pay the associated registration fee. This Letter should also be available for inspection by the Registration Officer.]

All persons who wish to enter the State are subject to usual immigration controls at the port of entry and final determination is at the discretion of the Immigration Officer.

Xxx XXXXXXXX
Immigration Policy Division/Atypical Working Scheme Division
Date: xx/xx/xxxx

The full conditions of this scheme, the application form, and details of the application process are available on the Irish Immigration Service website at [Atypical Working Scheme for non-EEA crew in the Irish fishing fleet](#).

Non-EEA Share Fishers-Residency Permits

Non-EEA nationals who intend staying in the State for longer than 3 months are required to hold an Irish Residency Permit, also known as a **GNIB Card** (credit card size).



The holders of such certificates are subject to certain conditions relating to participation in businesses and the take up of employment. These conditions are determined by the type of “Stamp” indicated on the Certificate. For example, many non-EEA fishers who work on Irish-registered fishing vessels hold a Stamp 4 Residency Permit which would allow them to be engaged as share fishers (but not as employees).

Work Agreement

Regulations⁴ made by the Minister for Transport provide that a fishing vessel owner who engages a person in any capacity under a contract of employment or in any employment relationship on board a fishing vessel must ensure that a Fisherman's Work Agreement is entered into in writing, signed by all relevant parties and retained on board the vessel.

These Regulations, rather than the Terms of Employment (Information) Act 1994, apply where they provide greater protection to a fisher.

A number of minimum particulars are required to be included in the Work Agreement including

- employer/owner name
- fishers name, address, date of birth and work capacity
- wages or amount of share to be paid
- place at, and date on, which the fisher is required to report on board
- name of fishing vessel
- voyage or voyages to be undertaken
- date of expiry of agreement (where fixed period)
- grounds for termination of agreement and notice period
- annual leave entitlement
- health and social security benefits
- repatriation entitlements
- minimum rest periods
- Dispute Resolution Procedure
- Contact Details for the Competent Authority (Marine Survey Office)

Crew Agreements-Share Fishers

Crew Agreements are required to be completed in accordance with Section 399 of the Merchant Shipping Act 1894 for all fishing vessels of 25 tons tonnage or upwards where the crew is made up entirely of share fishers. These Agreements record, among other matters, the name and signature of share fishers, the date and place of engagement, the date and place of discharge and the number of agreed shares.

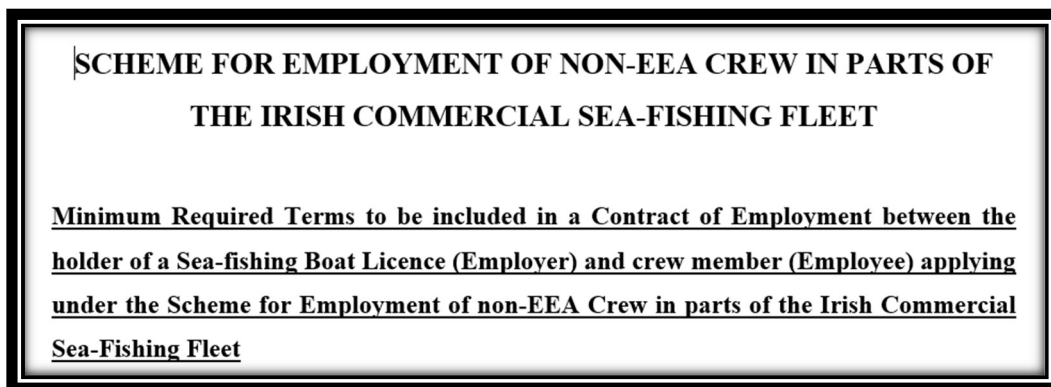
Terms for Non-EEA Atypical Scheme Fishers

Contracts for non-EEA fishers employed under the **Atypical Worker Permission for non-EEA Crew in the Irish fishing fleet** must also contain a number of additional provisions, including:-

- a minimum contract term of 12 months,
- A copy of the contract, both in English and in the fisher's native language, must be given to the fisher.

⁴ European Union (International Labour Organisation Work in Fishing Convention) (Crew List and Fisherman's Work Agreement) Regulations 2020 (S.I. No. 333 of 2020)

- payment of wages weekly in arrears directly to the fisher's bank account,
- a minimum weekly payment equivalent to the current National Minimum Hourly Wage x 39 hours including for periods during which the fishing vessel is inactive or tied-up,
- that the vessel owner/employer is responsible to ensure that the fisher is repatriated, at the employer's expense, to the country where he or she has been habitually resident where the employment contract ends and no new contract is available or where the Atypical Permission is revoked,
- that deductions may not be made from the fisher's wages for costs associated with applications for Atypical Permissions, travelling to commence employment, repatriation or training.



The full minimum Contract Terms for fishers employed under the Atypical Scheme are available at [FishingNET - Central Depository](#).

Repatriation

Regulations⁵ made by the Minister for Transport place an onus on the vessel owner to make provision as necessary under certain circumstances for the repatriation of a fisherman from a port outside the State. The costs of repatriation are to be borne by the vessel owner. There is specific provision also in the Atypical Worker Permission Scheme and associated terms of employment for owners to repatriate non-EEA fishers on the expiry of contracts.

Medical Care/Health and Social Security Protection

The 2020 Regulations⁵ also require the fishing vessel owner to ensure that a fisher receives appropriate medical attention and is taken ashore in a timely manner in order to receive appropriate treatment. In addition, the vessel owner is required to provide medical care and health protection when landed in a port outside the State and to cover the costs of such care and any other material assistance. Finally, those Regulations also provide that, where the State is not responsible for a fisher's social security protection, the owner of the fishing vessel is responsible for the provision of protection to that fisher.

⁵ European Union (International Labour Organisation Work in Fishing Convention) (Fishing Vessel Owner Liability and Repatriation) Regulations 2020 (S.I. No 332 of 2020)

Employment of Young Persons

A fishing vessel owner

- a) may not employ a person on board a fishing vessel unless that person has reached the age of 16 or has completed 3 years of post-primary education, whichever occurs later. This means that a person that has completed 3 years post-primary education by the age of 15 must wait until they reach the age of 16 before they can be employed on board a fishing vessel,
- b) may employ a person who has reached the age of 15 but is under the age of 18 to do light work⁶ on board a fishing vessel during school holidays provided that
 - a. the hours of work do not exceed 7 hours in any day or 35 hours in any week
 - b. the work is not harmful to the safety, health and development of the person
 - c. the person does not do any work for a period of at least 21 days during the summer holidays, and
 - d. the person receives the minimum rest periods set out in Section 4 of the Protection of Young Persons (Employment) Act 1996.

In general, a person under the age of 18 may not perform night work on board a fishing vessel. However, a person over the age of 16 may be permitted to perform night work where

- a) the effective training of a person, participating in an established training programme, would be impaired if he or she did not perform night work
- b) the specific nature of the duty or an established training programme requires the person to perform duties at night and the competent authority determines that the work will not have a detrimental impact on the person's health or well-being.

When a person under the age of 18 is required to perform night work, the appropriate compensatory rest period should be provided

The provisions of the Protection of Young Persons (Employment) Act 1996 relating to the prohibition on the employment of children, the duties of an employer in relation to young persons and children and the prohibition on the employment of young persons for more than 8 hours in any day or 40 hours in any week do not apply to the employment of close relatives.

Employers must give those employees who are under 18 years of age a copy of the official summary of the **Protection of Young Persons (Employment) Act 1996** within one month of taking up a job.

⁶ Light work is defined by S.I. 179 of 2020 as assisting with the navigation of the fishing vessel under the supervision of a fisherman, and any activities relating to the manual handling and non-automated processing of catch on board the fishing vessel.

Further information in relation to requirements governing the employment of young persons is available in the WRC's *Guide to Employment, Labour and Equality Law*⁷.

Agency Workers

An agency worker is an individual employed by an employment agency under a contract of employment by virtue of which the individual may be assigned to work for, and under the direction and supervision of, a person-the Hirer (e.g. a Vessel Owner) other than the employment agency itself.

Temporary agency workers must have equal treatment with workers who are work comparators and are employed directly by the Hirer in respect of pay, working time, rest periods, annual leave and public holidays. Temporary agency workers must also have equal access, with the Hirer's own workers, to facilities such as childcare, canteen or similar amenities, or transport services.

It should be noted that, under the Atypical Worker Permission Scheme (see below), the non-EEA fishers are required to be employed directly by the registered owner of the fishing vessel.

Pay

Pay rates are normally determined by the contract of employment. Employees must be paid for all hours worked, including overtime.

National Minimum Wage

Employees must be paid for their working hours at an hourly rate of pay that, on average, is not less than the prescribed minimum hourly rate of pay. There are, however, some exceptions to the entitlement to minimum wage, including those employed by close relatives, those aged under 20 and certain apprentices.

Minimum Pay under the National Minimum Wage Acts

Age	% of NMW
Under 18	70%
18 years old	80%
19 years old	90%
National Minimum Wage (20+)	100%

The gross reckonable pay earned by an employee in a pay reference period is divided by the employee's working hours in that pay reference period. The average hourly rate of pay obtained must be not less than the minimum hourly rate of pay entitlement of the employee under the National Minimum Wage Act, as detailed in the Table above.

⁷ [guide_to_employment_labour_and_equality_law_18.pdf \(workplacerelements.ie\)](#)

The pay reference period, which cannot be greater than one month, is required to be set out by the employer in the terms and conditions of employment. Note that the template terms of employment for **non-EEA nationals employed under the Atypical Worker Permission Scheme** provides for weekly payments in arrears to fishers; unless otherwise stated this is assumed to be the pay reference period for these fishers.

Reckonable pay means those payments or benefits in kind that are allowable in calculating the average hourly rate of pay of an employee, in order to determine if the employee has been paid his/her minimum hourly rate of pay entitlement under the National Minimum Wage Acts.

EXAMPLES OF RECKONABLE PAY	EXAMPLES OF NON-RECKONABLE PAY
Basic salary	Subsistence allowance
Commissions and bonuses (productivity related)	Overtime and call-out premiums
Board and lodgings (prescribed amounts)	Unsocial hours premium
Piece rates	Public holiday/ Sunday premium (where days worked)
Incentive rates	Expenses
Shift premium	Travel allowance
	Gratuity payment/Benefit-in-kind

For example, bonuses paid to fishers from time to time would in general be considered as reckonable pay.

In addition, the provision of board and/or lodgings by vessel owners to fishers is reckonable up to the following currently (March 2022) prescribed amounts.

- Meals €0.94 per hour worked
- €24.81 for accommodation only per week or €3.55 per day

Remember that **non-EEA nationals employed under the Atypical Worker Permission Scheme** are entitled to a minimum weekly payment equivalent to the current National Minimum Hourly Wage x 39 hours including for periods during which the fishing vessel is inactive or tied-up. Any hours worked by such fishers over and above 39 hours in a week should be paid at a rate not less than the National Minimum hourly rate of pay.

Payslips

Employers must give employees, with every wage packet/payment, a written statement of gross wages (payslip) itemising the nature and amount of each deduction. If wages are paid by credit transfer, the statement of wages should be given to the employee soon after the credit transfer has taken place.



Deductions from Pay

Employers may not make deductions from wages or receive payment from their workers unless

- a) required by law, such as PAYE or PRSI;

- b) provided for in the contract of employment, for example, certain occupational pension contributions; or to make good such shortcomings as bad workmanship, breakages or till shortages; or for the provisions of goods and services necessary for the job such as the provision or cleaning of uniforms;
- c) made with the written consent of the employee, for example a private health insurance payment or trade union subscriptions.

For example, vessel owners are not entitled to deduct from the wages of a non-EEA fisher engaged under the Atypical Permission any sum for the cost of travelling to commence employment, repatriation, training or the application for, and securing, the Atypical Permission.

Board and Lodgings

Employers can make deductions for the provision of full board and/or lodgings subject to this being included in the terms and conditions of employment. However, such deductions should not result in employees receiving an hourly rate of pay that, on average, is less than the minimum hourly rate of pay as prescribed under the National Minimum Wage Act, 2000 (see above).

The following maximum amounts can be reckoned when determining compliance with the statutory minimum hourly rate of pay

- €0.94 per hour worked where meals are provided
- €24.81 per week or €3.55 per day for accommodation

Sick Pay

In general the matter of sick pay and sick leave is not covered under employment legislation. Policy on sick pay and sick leave in individual employments may be decided by the employer and agreed as part of the employee's terms and conditions of employment.

The Terms of Employment Acts 1994 to 2014 provide that an employer is obliged to provide an employee with a written statement of terms of employment within 2 months of the commencement of employment. The written statement of terms of employment must include information on the terms or conditions relating to incapacity for work due to sickness or injury.

The template Contract Terms for fishers employed under the Atypical Scheme do not make provision for incapacity for work due to sickness or injury.

Public Holidays

Due to the nature of the fishing industry, fishers will often be required to work on Public Holidays. There are 10 public holidays, as follows, each year

Public Holidays

1 st January	First Monday in May
St Patrick's Day (17 th March)	First Monday in June
18 th March (2022 only)	First Monday in August
First Monday in February (from 2023)	Last Monday in October
Easter Monday	Christmas Day (25 th December)
	St Stephen's Day (26 th December)

In respect of a public holiday, the employee is entitled to whichever of the following his/her employer determines:

- a) a paid day off on that day
- b) a paid day off within a month of that day
- c) an additional day of annual leave
- d) an additional day of pay

The Public Holiday benefit rate can be different for each public holiday and each employee depending on the individual's work pattern:-

- If the business is closed on the public holiday and an employee would normally be due to work, then they get their normal day's pay.
- If the business is open and an employee works, he/she is entitled to either paid time off or an additional day's pay. The additional day's pay is what was paid for the normal daily hours last worked before the public holiday.
- If an employee is not normally rostered to work, then they will be entitled to one-fifth of their normal weekly wage extra.
- If an employee ceases to be employed during the week ending on the day before a public holiday, having worked during the 4 weeks preceding that week, he/she is entitled to receive pay for the public holiday.
- If a person is on temporary lay-off they are entitled to benefit for the public holidays that fall within the first thirteen weeks of lay-off.

If an employer claims that he/she grants 10 additional days of annual leave to meet the Public Holiday entitlement, there should be records accordingly of these days of leave and the employee's term of employment should make reference to this provision.

Training

The Fishing Vessel (Basic Safety Training) Regulations, 2001 (SI 587 of 2001) require every fisher to undertake basic safety training before going to sea for the first time on a fishing vessel. This training consists of personal survival techniques, elementary first aid, fire prevention and health and safety training.

In the case of non-EEA fishers employed under the Atypical Worker Permission Scheme, the Owner/Employer undertakes that prior to the commencement of the employment, the fisher will be provided (at no expense to him/her) with all appropriate training for the job including safety training. In the first week after the commencement of this contract the Owner/Employer must ensure that the fisher undertakes, at the Owner/Employer's expense,

Basic Safety Training with Bord Iascaigh Mhara (BIM) unless the fisher already holds a BIM Safety Card issued within the past five years.

If the employee holds a STCW-95⁸ certificate⁹ of having successfully completed one or more of the following elements in the past five years:-

- Personal Survival Techniques
- Elementary First Aid
- Fire Prevention

he or she is not required to retake such element(s) but must complete any outstanding element(s) and the Safety Awareness component of the Basic Safety Training.

Health and Safety

The Health and Safety Authority (HSA) and the Department of Transport enforce legislation with regard to safety and health on board fishing vessels. In general the HSA enforce occupational health and safety legislation whilst the Department of Transport enforce maritime safety legislation.

The objective of occupational health and safety law is to reduce the number of workplace injuries or deaths, the vast majority of which can be easily prevented by taking very straightforward safety precautions.

The specific occupational health and safety legislation enforced by the HSA and applicable to the fishing sector includes:

- The Safety, Health and Welfare at Work Act 2005 which requires employers to have a Safety Statement and sets out the general duties of employers and employees/share fishers,
- The Safety, Health and Welfare at Work (General Applications) Regulations 2007 to 2020 which deal with specific hazards in the workplace such as use of work equipment, electricity, manual handling, work at height, noise and vibration and the requirements for the reporting of accidents and dangerous occurrences, and
- The Safety, Health and Welfare at Work (Fishing Vessels) Regulations 1999 which relate to safety on board, including duties and responsibilities, vessel construction, accommodation, stability, firefighting and electrics.

Employers/vessel owners are required to furnish fishers at the commencement of employment/engagement a copy of the employer's health and safety statement.

⁸ STCW=Standards of Training, Certification and Watchkeeping

⁹ Issued by an EEA Member State or a State recognised for provision of STCW training - Australia, Croatia, Hong Kong, Malaysia, New Zealand, Philippines, Russia, Singapore and Ukraine

Working Time/Hours of Rest

Workers on Irish-registered fishing vessels may not, on average over a 12-months period, work more than 48 hours in any week.

The following are the limits on working hours and minimum rest periods:-

	In any 24-hour period	In any 7-day period
Maximum Hours of Work	14	72
AND		
Minimum Hours of Rest	10	77

The hours of rest referred to in the Table above may be provided in two rest periods where

- a) one rest period is at least 6 consecutive hours, and
- b) the interval between the first and second rest period does not exceed 14 hours.



The master, or a person authorised by the master, is required to maintain on board the fishing vessel a record of the daily hours of work or rest for every fisher on board the vessel. In addition

- The record must be completed monthly in arrears,
- The record should be endorsed by the master (or a person authorised by the master), and by the relevant fisherman no later than 7 days after the last day of the calendar month to which the record relates,
- The relevant fisher should be given a copy of the endorsed record, and
- Each record is required to be retained for at least one year from the date of its making.

Below is the sample form which can be used to demonstrate compliance with these requirements.

Appendix 1: Sample Form

Hours	Please mark periods of rest, as applicable, with an 'X', or using a continuous line or an arrow																								Total Hours of rest in 24 period	Hours of Work in 24hr period	Comments
	01	02	03	04	05	06	07	08	09	10	11	12	13	14	15	16	17	18	19	20	21	22	23	24			
Date																											
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Name of Fishing Vessel: _____ IMO number (if any): _____ Fisherman (full name): _____

Position/rank: _____ Month and year: _____ Watchkeeper: yes no

I agree that this record is an accurate reflection of the hours of rest of the fisherman concerned.

Signature of Master or person authorised by the Master: _____ Signature of Fisherman: _____

This document is for completion and use in accordance with the European Union (International Labour Organisation Work in Fishing Convention) (Working Hours) Regulations 2019.

Please note: hours of work and rest: (1) Subject to the limit of an average of 48 hours of work a week over a reference period not exceeding 12 months, the limits on hours of work and rest in respect of a worker on board a sea-going fishing vessel shall be: (a) maximum hours of work which shall not exceed: (i) 14 hours in any 24-hour period, and (ii) 72 hours in any seven-day period; (b) minimum hours of rest which shall not be less than: (i) 10 hours in any 24-hour period, and (ii) 77 hours in any seven-day period. (2) Hours of rest may be divided into no more than two periods, one of which shall be at least six hours in length and the interval between consecutive such periods shall not exceed 14 hours.

Enforcement of the hours of work/rest requirements is the responsibility of the Department of Transport (Marine Survey Office).

This record, where completed in full, is accepted by WRC Inspectors for the purposes of determining compliance under the National Minimum Wage Act, 2000.

Leave/Holidays

Most employees are entitled to a minimum of 4 weeks paid annual leave per leave year or 8% of the hours worked in a year whichever is the greater. The amount of annual leave will depend on how much the employee has worked in a leave year. Employers may, of course, provide for greater than the minimum entitlement. Pay for annual leave must be given in advance and calculated at the employee's normal weekly rate of pay.



Records of annual leave showing the specific dates on which leave was granted should be kept by the employer. The recording of annual leave on the Hours of Rest/Work Form alone would not in general be accepted by WRC Inspectors.

Employees can accrue annual leave when they are on long term sick leave. This means –

- Statutory annual leave entitlement accrues during a period of certified sick leave.
- An annual leave carryover period of 15 months after a leave year will apply to those employees who could not, due to illness, take annual leave during the relevant leave year or during the normal carryover period of 6 months.
- On termination of employment, payment in lieu of untaken accrued annual leave will apply to leave which was untaken as a result of certified illness in circumstances where the employee leaves the employment within a period of 15 months following the end of the leave year during which the statutory leave entitlement accrued.

Unpaid Leave

Some vessel owners who engage fishers under the Atypical Worker Permission Scheme also grant unpaid leave to non-EEA fishers, in addition to paid leave, to allow fishers to return to their native country for a prolonged period at certain times of year.

It is important that an appropriate record of the grant and approval of such unpaid leave is kept by the vessel owner.

Termination of Employment

Notice

Employees who have been in continuous employment for at least 13 weeks, are generally entitled to the following notice of termination of employment:-

Length of Service	Minimum Notice
13 weeks to 2 years	1 Week
2-5 years	2 Weeks
5-10 years	4 Weeks
10 to 15 years	6 Weeks
More than 15 years	8 Weeks

Employees who have been in continuous employment for at least 13 weeks must give at least one week's notice of termination.

Employees who are engaged on a fixed-term contract, such as non-EEA fishers employed under the Atypical Permission Scheme, must be given, in their written terms of employment, the date on which the contract expires.

Pay on ending employment

On termination of employment, employers are required to provide a statement of pay and deductions, pay the employee any outstanding amounts, issue a final pay slip and provide information in relation to pension scheme entitlements.

Employees may have untaken annual leave (including leave accrued while on certified sick leave) and Public Holiday entitlements on cessation of employment. Employers must pay the

employee an amount equal to the pay, calculated at the normal weekly rate that the employee would have received had he/she been granted that leave before cessation. Likewise, if an employee has been overpaid annual leave based on their final date of employment, this may be rectified in their final pay slip.

Where an employee ceases to be employed during the week ending on the day before a Public Holiday and the employee has worked for the four weeks preceding that week, the employer must pay that employee an additional day's pay calculated at the appropriate daily rate.

Redundancy

The Redundancy Payments Acts 1967-2014 impose a statutory obligation on employers to pay compensation to employees dismissed for reasons of redundancy or laid off or kept on short-time for a minimum period. Redundancy arises where the employer has ceased to carry out business, an employee's job ceases to exist, work of a particular nature has ceased, a permanent reduction in the numbers employed has or is due to occur, reorganisation, etc.

The Redundancy Payments Acts 1967 - 2014 provide as follows

- i) That an employee with 104 weeks' continuous service, aged from 16, and whose employment is terminated because of redundancy is entitled to a redundancy lump-sum payment. Part-Time workers are included in this by virtue of the Protection of Employment (Part-Time Work) Act 2001 and the Redundancy Payments Act 2003,
- ii) That the statutory redundancy lumpsum entitlement is calculated as follows:
 - a. 2 weeks' pay for every year of service, subject to the statutory ceiling.
 - b. when that figure has been calculated, a bonus week's gross pay, subject to the prevailing statutory ceiling, is added on to get the final statutory redundancy lump sum figure

The lump-sum must be paid by the employer directly to the employee. An employer may decide to make a payment in excess of the statutory requirement to employees – this is entirely a matter for the employer. The Department of Social Protection's role relates exclusively to the payment of the statutory entitlement.

Employers must give at least 2 weeks' written notice of redundancies. On the date of the termination of employment the employer should pay the redundancy lump sum due.

Records

An employer must keep all records that are necessary to show whether employment rights are being complied with in relation to an employee, and those records must be kept for at least 3 years from the date the record is made. The records must be kept by the employer at the premises or place where the employee works, or if the employee works at 2 or more

premises or places, the premises or place from which the activities of the employee are principally directed or controlled.

The following list sets out the standard employment records which Employers must keep and to which a Workplace Relations Commission (WRC) Inspector will require access during an inspection: -

- Employer registration number with the Revenue Commissioners
- List of all employees including full name, address and PPS number for each employee (full-time and part-time)
- Written terms of Employment for each employee (the Atypical Scheme contract for non-EEA fishers employed under the Atypical Scheme) and a Statement of 'Core Terms' of Employment
- Payroll details (including Gross to Net, Rate per hour, Overtime, Deductions, Shift and other Premiums and Allowances, Commissions and Bonuses, Service Charges, etc.)
- Evidence that the employer has provided payslips to employees
- Employees' job classifications
- Dates of commencement and, where relevant, termination of employment
- Hours of work (may include Hours of Work/Rest Form for Fishers)
- Register of employees under 18 years of age
- Details of any board and/or lodgings provided to employees
- Holiday and Public Holiday entitlements received by each employee
- For non-EEA nationals, employment permits or evidence that permits are not required, e.g Atypical Worker Permission or Residency Permit (Stamp).
- Any documentation necessary to demonstrate compliance with employment legislation.

Achieving compliance

Inspectors of the Workplace Relations Commission carry out in-port and office/headquarters inspections from time to time to check compliance with employment rights legislation and the Atypical Worker Permission Scheme. As part of these inspections, Inspectors will interview fishers to check that they are receiving their entitlements.

The WRC objective is to work with fishing vessel owners to achieve compliance. Where owners do not engage with WRC Inspectors and/or do not address contraventions detected, and where relevant, pay any unpaid wages associated with contraventions, legal proceedings may be initiated.

Further Information

Information on employment legislation is available from the Workplace Relations Commission's Information Centre at 0818 80 80 90 and on www.workplacelrelations.ie. Enquiries may also be made using the [WRC Contact Page](#) on this website.



An Coimisiún um Chaidreamh san Áit Oibre
Workplace Relations Commission

www.workplacerelations.ie

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