



Closing the Loophole: Exploitation of Migrant Fishing Workers

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About Us

Focus on Labour Exploitation (FLEX) is a research and policy organisation working towards an end to labour exploitation. FLEX seeks to achieve this vision through the prevention of labour abuses, protection of the rights of those affected or at risk of exploitation and by promoting best practice responses to labour exploitation through research and evidence-based advocacy.

‘Seafarers Transit Loophole’ - Leave to enter for transfer to another vessel

In order to drive down labour costs, there has been an increasing reliance on non-European Economic Area (EEA) migrant fishers in the UK fishing industry. Lack of worker protections and oversight, poor conditions, and a significant power imbalance between worker and employer has meant that we are now seeing systemic exploitation of migrant fishers. This briefing explores how the current system facilitates this exploitation and sets out key recommendations on how to address this situation.

What is the ‘Seafarers Transit Loophole’?

UK fishing vessels that operate outside of UK territorial waters do not have to comply with work visa rules to employ migrant fishers. Instead they can rely on an exemption under section 8 of the Immigration Act 1971. As part of this exemption, fishers are given a Code 7 (contract seamen) stamp which permits them to enter the UK to join a ship which will leave the UK in a ‘reasonable amount of time’, usually within seven days.

This stamp, effectively a transit loophole, is intended for seafarers to pass through the UK to join their ship. The Home Office have confirmed that fishers who are transiting cannot work in UK Territorial Waters (usually 12 nautical miles from the UK coast).

Where fishing takes place within 12 nautical miles of the UK coast, workers who need permission to work in the UK should enter on a Skilled Worker visa (fishing roles are currently included on the UK's Immigration Salary List). Hence a Code 7 stamp does not provide seafarers with the right to stay or work in the UK itself. There is no UK labour market enforcement at all for these workers, even if they are employed by UK companies, working on a UK flagged vessel and selling into the UK supply chain. This excludes them from even the most basic of employment law protections such as the national minimum wage.

Fishers with a Code 7 stamp are left with few options if they are exploited. If they are working more than 12 nautical miles from the UK coast they are outside of UK jurisdiction. If they are closer, even if for a limited period, they are breaching the immigration rules. This means that these workers are criminalised, and even if they are exploited, contacting the authorities will more likely lead to an immigration enforcement response than support to access rights. The limited support that exists, such as the UK's National Referral Mechanism for identifying victims of trafficking, is difficult to access, rife with delays and does not allow people to work. The immigration restrictions for workers relying on a Code 7 stamp facilitate exploitation as they restrict access to external support and to rest opportunities as well as access to medical support. This means that unscrupulous employers can use the limitations of the 'transit loophole' to control workers.

Immigration Salary List

Fishing workers are included on the Immigration Salary List (codes 5119 and 9119). In 2024, despite a recommendation from the Migration Advisory Committee to exclude fishing roles on the new Immigration Salary List in order to address the risks of exploitation for migrant workers, the Government did not accept this recommendation (while accepting all other recommendations). No reasons were provided for this decision¹.

Most migrant fishers are employed through the 'transit loophole' route. The number of workers on skilled workers visas is very limited. In 2023, only 29 non-sportspeople held a visa for code 5119, and 37 for 9119. Both these figures may include people who are not employed on fishing vessels, so potentially overestimate the number of workers on skilled worker visas who are recruited as migrant fishers.

Industry figures have stated that the Skilled Worker route is not suited to the sector². The English language requirement is viewed as a major impediment. Additionally, while only the lowered Immigration Salary List visa fees are applicable, employers may be dissuaded by the costs in comparison to the 'transit loophole', as well as a minimum salary of £30,960, or a lower salary of £23,200 where the worker is under 26, studying or a recent graduate, or in professional training³.

In April 2023, in response to pressure from ITF and others, combined with research findings⁴, the Government confirmed that non-UK fishers must hold a Skilled Worker visa to work within UK territorial waters⁵. While this confirmation might appear to be positive there are risks depending on enforcement; if in practice fishers who apply to jobs in good faith continue to be hired using the 'transit loophole' the authorities need to be very clear that enforcement action will be against their employer, rather than the fisher who should be provided with an immigration route which enables them to find alternative employment in the industry and, where applicable, seek redress for any exploitation.

Exploitation of Migrant Fishing Workers

In 2022 a comprehensive survey found that most workers worked excessive hours in violation of ILO Convention 188⁶. They also received pay substantially lower than domestic and EEA fishers. 60% reported working minimum shifts of 16 hours, and one third reported working shifts exceeding 20 hours. 30% reported that they had never received 10 consecutive hours of rest. Due to the requirement that workers remain onboard the fishing vessel while in port, 25% reported that they had never received 77 hours of rest across a 7-day period, as they are required to clean and conduct maintenance during their 'off' days in port. Non-EEA migrant fishers reported that they were paid as little as £400 per month and up to £1,500 per month. On average, workers incurred around £1,800 of debt despite ILO Convention 188 ('Work in Fishing' Convention) prohibiting fishers from being charged placement fees. When calculating wages, debt, catch-based top-ups, and average working hours (excluding informal port work), the average salary for migrant fishing workers was £3.52 per hour. Beyond that, overwork and non-payment of wages, 35% of fishers reported that they had experienced regular physical violence. There were also reported examples of extreme violence, for instance, one worker recounting being beaten while racial slurs were yelled at them by the skipper's son. Additionally, two fishers reported extreme acts of sexual violence⁷.

Probable forced and compulsory labour was found in 19% of the interviews and survey responses, with potential forced and compulsory labour found in 48%, demonstrating the scale of exploitation in the UK fishing industry⁸. This appears to be systematised by the large scale misuse of the transit stamp and resulting fear of contact with authorities combined with lack of proactive Labour Market Enforcement.

An additional risk relates to the isolation that migrant fishing workers face on board vessels, as well as the insular nature of the fishing industry in the UK. As a result, many workers do not know who to trust in reporting a grievance and rely on welfare groups and ITF to raise grievances rather than Government bodies like the MCA who are tasked with enforcing Convention 188. Over 60% of workers reported that they would never report a grievance out of fear of reprisal, such as blacklisting.

Lack of Enforcement and the Need for Worker-driven Processes

These structural factors point to a need for meaningful worker-driven processes (including trade union activity on the part of ITF and its UK affiliate Unite the Union), as legislation alone cannot address the enforcement considerations. At present, regulatory bodies appear to be operating in a fragmented way, with little joined up working or coordination across agencies.

Despite the UK having ratified ILO Convention 190 (on violence and harassment at work) no UK authority holds responsibility for its application on fishing vessels. Nevertheless, even with stronger coordination across regulatory bodies, migrant fishing workers will face difficulties in reporting violations given the fact that only skilled workers are able to leave the fishing vessel and port freely without prior approval. Moreover, threshold issues remain, with few authorities having the ability to board a vessel unless the case is both reported and deemed to be sufficiently severe.

Recommendations

1. Fishers should not be punished for their employers' improper use of this transit loophole to employ them. To end the misuse of the transit loophole, fishers inside the UK need to be able to switch from this stamp onto a bridging visa, the Skilled Worker Visa, or another suitable visa.
2. Conduct a formal review of the Skilled Worker Visa requirements, the inclusion of fishers on the Immigration Salary List, and the skilled worker visa's practical applicability to migrant fishers working on UK fishing vessels.
3. The Fair Work Agency should review the enforcement of ILO Conventions 188 and 190 on fishing vessels to ensure that workers are able to report exploitation and secure redress in practice. There needs to be proactive labour market inspections and enforcement of decent working conditions for all crew in British waters.
4. There must be secure reporting pathways in place for migrant fishers with the Fair Work Agency able to issue short term bridging visas so crew can work to support themselves while they take a claim or give evidence.

References

1 Defra (2024). Policy paper: Independent review into labour shortages in the food supply chain: government response.

2 McBride, O. (2024) Impact of Skilled Worker Visa Changes on the UK Seafood Sector. The Fishing Daily. Available at: <https://thefishingdaily.com/latest-news/impact-of-skilled-worker-visa-changes-on-the-uk-seafood-sector/>

3 A worker under 26, studying or a recent graduate, or in professional training can be paid 70% of their job's standard going rate if their salary will be at least £30,960 per year and one of the following applies: The worker is under 26 on the date they apply; they are currently in the UK on a Student visa studying at bachelor's degree level or above - or have been in the last 2 years, and a Student or visit visa was their most recent visa; they are currently in the UK on a Graduate visa, or have been in the last 2 years; they will be working towards a recognised qualification in a UK regulated profession; they will be working towards full registration or chartered status in the job they are being sponsored for. See: <https://www.gov.uk/skilled-worker-visa/when-you-can-be-paid-less>

4 Sparks, J. (2022). Letting exploitation off the hook?: Evidencing labour abuses in UK fishing. Rights Lab.

5 Home Office (2023). Letter from Suella Braverman, Home Office visa support for the seafood sector. 24 April 2024. Available at: <https://commonslibrary.parliament.uk/content/uploads/2023/05/Home-Secretary-Fishing-Industry-Letter.pdf>

6 Sparks, J., (2022). Letting exploitation off the hook?: Evidencing labour abuses in UK fishing. Rights Lab.

7 *id.*

8 *id.*