

## SETTLEMENT AGREEMENT

Record No: 2018/5398P

THE INTERNATIONAL TRANSPORT WORKERS'  
FEDERATION  
v.  
THE MINISTER FOR JUSTICE AND EQUALITY AND  
OTHERS

The terms of this agreement are entered into by all parties with a commitment to engage with integrity and in good faith with the Scheme, and to treat each other in a respectful manner. This approach is fundamental to the effective and proper operation of the Scheme and to the welfare of its participants.

1. The First Named Defendant agrees not to veto any transfer of employment within the Scheme.
2. Where it arises, the Department of Justice & Equality will issue to the fisher a letter of notification that it has come to the attention of the Department of Justice and Equality that the fisher's contract of employment has ceased, and notify the fisher that he/she should furnish details of his/her new contract of employment under the Scheme within 28 days of the issue of the letter.
3. The First Named Defendant agrees that any requirement that an existing/previous employer consent to any new contract of employment must be abolished.
4. The Minister for Justice & Equality will include in future letters of approval, the following paragraph: "you are entitled to apply to transfer employment to another employer within the Scheme. You do not require the consent of your employer to do so. Your permission to be in the State is a matter for the Department of Justice and Equality and your employer may not cancel your permission to be in the State."
5. The Minister for Agriculture, Food and the Marine agrees that every intended participant will be given a hard copy of the contract of employment in his/her native language. The English language version will be the legally binding contract.
6. The Minister for Agriculture, Food and the Marine agrees that the contract of employment should contain clearer wording as to the fisher's entitlement to be paid for every hour worked and to receive working time records and payslips according to the manner in which the employee is paid.
7. It is agreed to provide information by means of a hyperlink in the letter of approval which directs them to the WRC website. This website will have a translation facility for the most up to date version of Employment Rights Explained. The WRC website will include a page for participants in the Scheme, explaining the employee's rights and to whom he or she should make a complaint in case of violation.

8. A hard copy of the Employment Rights Explained in the native language of the fisher will be included with the letter of approval.
9. The First Named Defendant agrees to communicate the letter of approval in both English and the native language.
10. The First Named Defendant agrees that fishers currently participating in the Scheme or in respect of whom applications are pending must be informed of any changes to the manner in which the Scheme is administered.
11. The Minister for Agriculture, Food and the Marine agrees that the cost of the AWP should not be deducted from the fisher's wages and a term to reflect this should be included in the contract.
12. The WRC and MSO have agreed the arrangements regarding maximum hours of work and minimum hours of rest for crew covered by the Atypical Worker Scheme as set out in **Appendix 1**.
13. The First Named Defendant, with the support of the Department of Business, Enterprise and Innovation, shall recommend that the WRC adjudicators have jurisdiction over violations of Regulation 6 of SI 709 of 2003, and to implement this recommendation by the appropriate legislative measures to be determined by the Department of Business, Enterprise and Innovation.
14. Regulations regarding the maximum hours of work and minimum hours of rest will be provided for in the statutory instrument transposing EU Directive 2017/159 by 15<sup>th</sup> November 2019.
15. Regulations regarding manning requirements will be provided for in the statutory instrument transposing EU Directive 2017/159 by 15<sup>th</sup> November 2019.
16. Legislation regarding the qualifications of officers on fishing vessels is contained in SI 289/1988 as amended by SI 192/2000.
17. The Minister for Transport, Tourism and Sport will continue to enforce the applicable Merchant Shipping and Sea Pollution Acts including the return of the log books.
18. The Minister for Justice and Equality will monitor serious and repeated violations of the Scheme in accordance with paragraph 15 of the Scheme.
19. The Department of Justice and Equality and the WRC agree to a mechanism to share information and facilitate inspections.
20. The First Named Defendant agree that the Oversight Committee will meet every two months for the first six months and thereafter quarterly and the Chair will supply the topics and relevant materials for discussion 10 days in advance to all interested parties, including the ITF, and permit them to make representations and as appropriate to attend. The Department of Agriculture, Food and the Marine to Chair the Committee.

21. The First Named Defendant will make an agreed contribution to the Plaintiff's costs.

**Signed:**

The Minister for Agriculture, Food and the Marine

The Minister for Business, Enterprise and Innovation

The Minister for Justice & Equality

The Minister for Transport, Tourism and Sport

The Workplace Relations Commission

The International Transport Workers Federation

## **APPENDIX 1**

### **Working arrangements regarding maximum hours and rest breaks for crew covered by the Atypical Worker Scheme**

The following arrangements have been agreed between the Workplace Relations Commission, the Marine Survey Office, and the Department of Justice and Equality in respect of the implementation of SI 709 of 2003.

It is hereby agreed that:

1. Where during an inspection under the Atypical Workers Scheme, a WRC inspector comes across records showing a potential breach in relation to excess hours or lack of rest periods, and/or where a WRC inspector's attention is brought to potential breaches of excess hours or lack of rest periods during interviews with employees covered by the Atypical Workers Scheme, then the WRC inspector will make a copy of the relevant records and/or take a statement from the employee.
2. The WRC inspector shall transmit to the MSO a copy of the records and/or a copy of the statements obtained relevant to SI 709 of 2003 within two working days.
3. The WRC shall transmit any relevant information that comes to their attention to An Garda Siochana.
4. Where the hours of rest form is not available on board and/or is incomplete in any way and/or if it is not signed by the crew members, WRC will transmit those details to the MSO within two working days.
5. Should any other matter come to the attention of a WRC inspector during the course of their inspection which they believe is relevant to potential breach of hours of work and rest periods coming under SI 709 of 2003 they will advise the MSO within two working days.
6. Upon receipt and transmission of information furnished by the WRC relating to hours of work and rest coming under SI 709 of 2003, the MSO shall:
  - a. Carry out a preliminary assessment of the information provided by the WRC to determine the appropriate level of follow up;

- b. If the MSO is satisfied that the information received indicates an immediate risk to safety the MSO will carry out an inspection as soon as is practicable;
  - c. If the MSO is satisfied that the information received does not present an immediate risk to safety but other issues may arise in respect of the hours of work and hours of rest under SI 709 of 2003, the MSO will undertake to carry out an inspection or audit within two weeks;
  - d. The MSO shall take such measures as it considers appropriate if satisfied that there has been a breach of SI 709 of 2003.
7. The Department of Justice and Equality shall furnish to the MSO an updated list of licensed vessel holders coming within the Atypical Workers Scheme on a quarterly basis.
8. The MSO shall keep the list of licensed vessel holders as set out in paragraph 7.