

SCHEDULE 1 U.K.

Regulation 2(1)

1. The following are the conditions that must be satisfied for an agreement between an employer and workers employed by him or their representatives to constitute a workforce agreement for the purposes of these Regulations—

- (a) the agreement is in writing;
- (b) it has effect for a specified period not exceeding five years;
- (c) it applies either—
  - (i) to all of the relevant members of the workforce; or
  - (ii) to all of the members of the workforce who belong to a particular group;
- (d) the agreement is signed—
  - (i) in the case of an agreement of the kind referred to in sub-paragraph (c)(i), by the representatives of the workforce, and in the case of an agreement of the kind referred to in sub-paragraph (c)(ii), by the representatives of the group to which the agreement applies (excluding, in either case, any representative not a relevant member of the workforce on the date on which the agreement was first made available for signature), or
  - (ii) if the employer employed 20 or fewer workers on the date referred to in sub-paragraph (d)(i), either by the appropriate representatives in accordance with that sub-paragraph or by the majority of the workers employed by him; and
- (e) before the agreement was made available for signature, the employer provided all the workers to whom it was intended to apply on the date on which it came into effect with copies of the text of the agreement and such guidance as those workers may reasonably require in order to understand it fully.

2. For the purposes of this Schedule—

“a particular group” is a group of the relevant members of a workforce who undertake a particular function, work at a particular workplace or belong to a particular department or unit within their employer’s business;

“relevant members of the workforce” are all of the workers employed by a particular employer, excluding any worker whose terms and conditions of employment are provided for, wholly or in part, in a collective agreement;

“representatives of the workforce” are workers duly elected to represent the relevant members of the workforce, “representatives of the group” are workers duly elected to represent the members of a particular group, and representatives are “duly elected” if the election at which they were elected satisfied the requirements of paragraph 3 of this Schedule.

3. The requirements concerning elections referred to in paragraph 2 are that—

- (a) the number of representatives to be elected is determined by the employer;
- (b) the candidates for election as representatives of the workforce are relevant members of the workforce, and the candidates for election as representatives of a group are members of the group;
- (c) no worker who is eligible to be a candidate is unreasonably excluded from standing for election;
- (d) all the relevant members of the workforce are entitled to vote for representatives of the workforce, and all members of a particular group are entitled to vote for representatives of the group;

**Changes to legislation:** There are currently no known outstanding effects for the *The Fishing Vessels (Working Time: Sea-fishermen) Regulations 2004*. (See end of Document for details)

- (e) the workers entitled to vote may vote for as many candidates as there are representatives to be elected; and
- (f) the election is conducted so as to secure that—
  - (i) so far as reasonably practicable, those voting do so in secret, and
  - (ii) the votes given at the election are fairly and accurately counted.

## SCHEDULE 2 U.K.

Regulation 22

### AMENDMENTS TO LEGISLATION

- 1.—(1) The Employment Tribunals Act 1996 <sup>M1</sup> is amended as follows.
- (2) In section 18(1) (cases where conciliation provisions apply), after paragraph (m) there is inserted—
- “(n) under regulation 19 of the Fishing Vessels (Working Time: Sea-fishermen) Regulations 2004.”.
- (3) In section 21(1) (jurisdiction of the Employment Appeal Tribunal), after paragraph (n) there is inserted—
- “(o) the Fishing Vessels (Working Time: Sea-fishermen) Regulations 2004.”.

#### Marginal Citations

**M1** 1996 c. 17.

- 2.—(1) The Employment Rights Act 1996 <sup>M2</sup> is amended as follows.
- (2) In section 45A(5) (right not to suffer detriment: working time cases)—
- (a) After “reference to” there is inserted “ (a) ”; and
  - (b) At the end there is inserted—
    - “(b) the Fishing Vessels (Working Time: Sea-fishermen) Regulations 2004.”.
- (3) In section 101A (2) (fairness in dismissal: working time cases)—
- (a) After “reference to” there is inserted “ (a) ”; and
  - (b) At the end there is inserted—
    - “(b) the Fishing Vessels (Working Time: Sea-fishermen) Regulations 2004.”.
- (4) In section 104(4) (fairness in dismissal: assertion of statutory right), for paragraph (d) there is substituted—
- “(d) the rights conferred by the Working Time Regulations 1998, the Merchant Shipping (Working Time: Inland Waterway) Regulations 2003 or the Fishing Vessels (Working Time: Sea-fishermen) Regulations 2004.”.

#### Marginal Citations

**M2** 1996 c. 18; section 45A was inserted by regulation 31(1) of the Working Time Regulations 1998, S.I. 1998/1833 (the 1998 Regulations) and amended by the [Employment Relations Act 1999 \(c. 26\)](#), section 18(3) and Schedule 9, Table 3; section 101A was inserted by regulation 32(1) of the 1998 Regulations and section 104(4)(d) was inserted by regulation 32(2) of those Regulations. Those

sections were amended by paragraph 3 of Schedule 2 to the Merchant Shipping (Working Time: Inland Waterways) Regulations 2003, [S.I. 2003/3049](#).

- 3.—(1) The Employment Rights (Northern Ireland) Order 1996 <sup>M3</sup> is amended as follows.
- (2) In Article 68A (right not to suffer detriment: working time cases)—
- (a) After “reference to” there is inserted “ (a) ”; and
- (b) at the end there is inserted—
- “ (b) the Fishing Vessels (Working Time: Sea-fishermen) Regulations 2004.”
- (3) In Article 132A (fairness in dismissal: working time cases)—
- (a) after “reference to” there is inserted “ (a) ”; and
- (b) at the end there is inserted
- “ (b) the Fishing Vessels (Working Time: Sea-fishermen) Regulations 2004.”
- (4) In Article 135(4) (fairness in dismissal: assertion of statutory right), for paragraph (d) there is substituted—
- “ (d) the rights conferred by the Working Time Regulations (Northern Ireland) 1998, the Merchant Shipping (Working Time: Inland Waterway) Regulations 2003 or the Fishing Vessels (Working Time: Sea-fishermen) Regulations 2004.”.

#### Marginal Citations

**M3** [S.I. 1996/1919 \(N.I. 16\)](#); [Article 68A](#) was inserted by regulation 31(1) of the Working Time Regulations (Northern Ireland) 1998 (S.R. (N.I.) [1998 No. 386](#)) (“the 1998 Regulations”) and amended by the Employment Relations (Northern Ireland) Order 1999, [S.I. 1999/2790 \(N.I. 9\)](#), [Article 20\(3\)](#) and Schedule 9; [Articles 132A](#) and 135(4)(d) were inserted by regulation 32(1) and (2) of the 1998 Regulations, respectively. Those Articles were amended by paragraph 4 of Schedule 2 to the Merchant Shipping (Working Time: Inland Waterways) Regulations 2003, [S.I. 2003/3049](#).

4. In Article 20(1) of the Industrial Tribunals (Northern Ireland) Order 1996 <sup>M4</sup> (cases where conciliation provisions apply), at the end there is inserted—
- “ (1) under regulation 19 of the Fishing Vessels (Working Time: Sea-fishermen) Regulations 2004.”.

#### Marginal Citations

**M4** See footnote (e) on page 3.

5. In regulation 18(1) of the Working Time Regulations 1998 <sup>M5</sup> (excluded sectors), for paragraph (b) there is substituted—
- “ (b) to workers to whom the Fishing Vessels (Working Time: Sea-fishermen) Regulations 2004 apply;”.

#### Marginal Citations

**M5** [S.I. 1998/1833](#); [regulation 18](#) was substituted by the Working Time (Amendment) Regulations 2003, [S.I. 2003/1684](#), [regulation 4](#).

**Changes to legislation:** There are currently no known outstanding effects for the The Fishing Vessels (Working Time: Sea-fishermen) Regulations 2004. (See end of Document for details)

6. In regulation 18(1) of the Working Time Regulations (Northern Ireland) 1998 <sup>M6</sup> (excluded sectors), for paragraph (b) there is substituted–

“(b) to workers to whom the Fishing Vessels (Working Time: Sea-fishermen) Regulations 2004 apply.”.

**Marginal Citations**

**M6** S.R. (N.I.) 1998 No. 386; regulation 18 was substituted by the Working Time (Amendment No. 2) Regulations (Northern Ireland) 2003, S.R. (N.I.) 2003 No. 330.

7. In regulation 3 of the Merchant Shipping (Medical Examination) Regulations 2002 <sup>M7</sup> (application of Regulations), for paragraph (3) there is substituted–

“(3) These Regulations shall not apply to any person who is subject to any requirement contained in the Working Time Regulations 1998, the Merchant Shipping (Working Time: Inland Waterway) Regulations 2003 or the Fishing Vessels (Working Time: Sea-fishermen) Regulations 2004.”.

**Marginal Citations**

**M7** S.I. 2002/2055.

8. In regulation 3(2) of the Merchant Shipping (Hours of Work) Regulations 2002 <sup>M8</sup> (application of Regulations), at the end there is inserted “ or the Fishing Vessels (Working Time: Sea-fishermen) Regulations 2004 ”.

**Marginal Citations**

**M8** S.I. 2002/2125.

**Changes to legislation:**

There are currently no known outstanding effects for the The Fishing Vessels (Working Time: Sea-fishermen) Regulations 2004.