

# New Zealand Orange Roughy Fishery

## Certificate Holder Forced and Child Labour Policies, Practices and Measures

### 1 Introduction

Fisheries and at-sea Certificate Holders (CH) in the Marine Stewardship Council (MSC) program are required to provide a self-description of policies and measures, including regulatory requirements and procedures that are in effect in the Unit of Assessment, to protect fishing crew from forced labour or child labour, as well as any efforts by the private sector. The objective is to require certificate holders to communicate how government, industry, or other relevant entities protect against forced or child labour.

Each fishery and at-sea Chain of Custody client shall provide this information by completing this template. This template should be completed by the client in good faith and be based on information known and available to the client at the time of completion. The information provided should be representative of the range of measures known to the certificate holder.

The completed form will be uploaded to MSC database to be published on the MSC website at the same time as the Public Certification Report.

Guidance for filling in the template is found in the [Appendix](#) of this template. Information is required on all issues addressed in the template and should be provided in English, which is the official language of the MSC.

Please complete all unshaded fields. Please fill in N/A if an issue is not applicable, including a short justification for why it is not applicable.

## 2 Marine Stewardship Council certificate holder forced and child labour policies, practices and measures

**Table 2.1 – Certificate holder information**

1	Composition of fishery client group on behalf of who the statement is provided
	<ul style="list-style-type: none"> <li>- Characterise the composition of the fishery client group, including cost sharing entities.</li> <li>- Describe the relationship between cost sharing members of the fishery client group and the vessel owners and operators of the Unit of Certification (UoC).</li> </ul>
CH	<p>Deepwater Group Ltd (DWG) is the fishery client group for the New Zealand orange roughy fishery certificate. All owners of ORH 3B and ORH 7A quota are eligible to be covered by the MSC certificate. DWG's shareholders collectively own around 90% of the quota for these fish stocks. All shareholders are eligible parties to the MSC certificate. Non-shareholder quota owners who wish to share the MSC Certificate are invited to either become a shareholder of DWG or apply to DWG for a Certificate Sharing Agreement.</p>
2	Responsibility for labour regulation
	<ul style="list-style-type: none"> <li>- What management authorities and laws, including flag state authorities, control labour-related regulations in the unit of assessment area?</li> <li>- How are laws enforced?</li> </ul>
CH	<p><b>Laws and regulations<sup>1</sup></b></p> <p>The New Zealand seafood industry must comply with all relevant legislation relating to the human rights, employment and safety of fishers. Within New Zealand, various aspects of worker livelihood are specified through Acts of Parliament and supported by associated rules and regulations as well as decisions of the courts. Compliance with these legal requirements provides the minimum standard that every business and vessel must achieve in order to participate in the seafood industry.</p> <p>For seafood industry participants in New Zealand, these requirements are primarily covered under the:</p> <ul style="list-style-type: none"> <li>– Employment Relations Act 2000 (ERA)<sup>2</sup>,</li> <li>– Minimum Wages Act 1983<sup>3</sup>,</li> <li>– Holidays Act 2003<sup>4</sup>,</li> <li>– Human Rights Act 1993<sup>5</sup>,</li> <li>– Wages Protection Act 1983<sup>6</sup>,</li> <li>– Equal Pay Act 1972<sup>7</sup>,</li> <li>– Crimes Act 1961<sup>8</sup>, and</li> <li>– Health and Safety at Work Act 2015 (HSWA)<sup>9</sup>.</li> </ul> <p>International Labour Organisation (ILO) and International Maritime Organisation (IMO) convention provisions that relate to fisher livelihood<sup>10</sup> and training,<sup>11</sup> are partly incorporated into New Zealand law by some of the above legislation.<sup>12</sup></p>

<sup>1</sup> <https://openseas.org.nz/worker-livelihood/>

<sup>2</sup> The ERA provides that employees and employers must deal with each other in good faith, and must not directly or indirectly, do anything to mislead or deceive each other, or that is likely to mislead or deceive each other.

<sup>3</sup> The purpose of the Minimum Wage Act 1983 is to allow a prescribed minimum wage to be set for persons who are aged 16 years or older.

<sup>4</sup> The purpose of the Holidays Act 2003 is to promote balance between work and other aspects of employees lives and to provide employees with minimum entitlements to annual holidays, public holidays, sick leave and bereavement leave.

<sup>5</sup> The purpose of the Human Rights Act 1993 is to help ensure that all people in New Zealand are treated fairly and equally. The Act also sets out the role of the Human Rights Commission.

<sup>6</sup> The purpose of the Wages Protection Act 1983 is to set out the way wages must be paid and prevent unlawful deductions from wages.

<sup>7</sup> The purpose of the Equal Pay Act 1972 is to enable the elimination and prevention of gender discriminations in remuneration rates in all sectors of paid employment.

<sup>8</sup> The Crimes Act 1961 codifies serious criminal offences in New Zealand law.

<sup>9</sup> The Health and Safety at Work Act 2015 is New Zealand's workplace health and safety law and sets out the principles, duties and rights in relation to workplace health and safety.

<sup>10</sup> The Human Rights Act 1993 encompasses protection of human rights in New Zealand in general accordance with United Nations Covenants or Conventions on Human Rights.

<sup>11</sup> The International Maritime Organisation International Convention on Standards of Training, Certification and Watchkeeping for Fishing Vessel Personnel (STCW-F), 1995 provides the training framework for which the New Zealand fishing qualifications are aligned with.

<sup>12</sup> Human Rights Act 1993 and the Maritime Transport Act 1994.

	<p>Slavery and the use of forced, bonded or indentured labour is prohibited in the New Zealand labour market, including on New Zealand fishing vessels.<sup>13</sup> Child labour and child exploitation is prohibited on New Zealand fishing vessels. The Maritime Transport Act<sup>14</sup> provides that no person shall employ on any New Zealand ship any person of an age that requires that person to be enrolled at school. The school leaving age in New Zealand is presently set at age 16.<sup>15</sup> Consequently, fishers must be at least 16 years of age to work on a New Zealand ship. New Zealand therefore meets the basic requirement of the ILO convention no. 188 which is that the minimum age for working on a fishing vessel shall be 16 years. New Zealand also prevents child labour in other ways such as the fact that the Health and Safety at Work (General Risk and Workplace Management) Regulations 2016 requires that a person under the age of 15 may not work with machinery. In practice, the age at which fishers are employed on New Zealand fishing vessels appears to be at least 17 years of age, with some companies not recruiting anyone under the age of 18. Child exploitation is prohibited in New Zealand and is provided for with the Crimes Act s98AA<sup>16</sup>.</p> <p><b>Enforcement</b></p> <p>A number of New Zealand authorities, commissions and regulatory bodies are involved with monitoring, verifying and dealing with conformity and verification issues. These include:</p> <ul style="list-style-type: none"> <li>– Maritime New Zealand</li> <li>– Human Rights Commission</li> <li>– Employment Relations Authority</li> <li>– MBIE Labour Inspectorate</li> <li>– Worksafe New Zealand</li> <li>– Ministry for Primary Industries</li> <li>– New Zealand Qualifications Authority.</li> </ul> <p>Maritime New Zealand is the regulator under the Maritime Transport Act 1994<sup>17</sup> and is also designated to carry out health and safety regulatory functions under the Health and Safety at Work Act 2015, for ships as workplaces and work aboard ships. MNZ also manages port state control inspections of fishing vessels which cover health and safety of the operation, training, manning levels, accommodation, provisions, certification and labour issues. These inspections may be random or they may be instigated by a complaint.</p>
3	Risk identification and mitigation
	- Describe the processes, including government and certificate holder measures, that are in place in the UoC to identify and mitigate any risk of child and forced labour.
CH	<p>New Zealand law requires all commercial fishing vessels to be registered as New Zealand vessels (Ship Registration Act 1992) and their fishers to be covered by New Zealand labour law (Maritime Transport Act 1994). All rights and protections apply whether fishers are New Zealand citizens or foreign nationals. By law fishers must be at least 16 years old to work on a New Zealand fishing vessel. A register of all persons under the age of 18 years who are engaged on any New Zealand fishing vessel is additionally required by law and must include the date of birth of each such person. Fishers are provided an induction by the seafood companies before they commence working on a fishing vessel. This induction includes their job description, their rights and responsibilities and basic health and safety training. It will also include an introduction to the hazards and risks of working on a fishing vessel, whether at sea en-route to the fishing grounds, whilst fishing or alongside the wharf in port. All vessels are regularly inspected, in line with New Zealand's legislation, and are also subject to spot checks by Maritime New Zealand's Maritime officers at any time. Prosecution may take place if laws have been breached.</p>

<sup>13</sup> Crimes Act 1961, ss 98 and 98AA consistent with C029 Forced Labour Convention, 1930 (No.29) and C105 Abolition of Forced Labour Convention, 1957 (No.105).

<sup>14</sup> Maritime Transport Act 1994 s 26.

<sup>15</sup> Education Act 1989 Part 3, s 20.

<sup>16</sup> Crimes Act 1961 s98AA.

<sup>17</sup> Maritime Transport Act 1994.

4	Crew recruitment
	- Describe the typical methods used to recruit crew in the UoC and describe the migrant composition of crew if any.
CH	Companies typically recruit crew through online or print media. Any foreign crew can only enter the New Zealand workforce with immigration approval after extensive vetting and scrutiny from all of the above regulators.
5	Engagement with fish worker groups
	- Where there is known engagement with fisher, migrant, and worker rights groups, describe how this occurs and the organisations engaged with workers in the Unit of Assessment (UoA).
CH	<p>The New Zealand Fishing Industry Guild<sup>18</sup> is the registered union for commercial fishermen working for New Zealand fishing companies. Membership is open to all fishers and offers the following:</p> <ul style="list-style-type: none"> <li>- Negotiates the Collective Agreement on behalf of crews</li> <li>- Supports members who have an unresolved employment dispute</li> <li>- Offers a range of valuable Member Benefits</li> <li>- Advocates Kiwi jobs for Kiwi fishermen</li> <li>- Assists with employment opportunities.</li> </ul>
6	Crew contracts
	- Describe the nature of contracts or legal work agreements in place in the UoC and the issues addressed in such agreements.
CH	<p>Fishers are free to choose to work as employees or as independent self-employed contractors (e.g. share fishers) if the seafood company offers this.</p> <p>New Zealand seafood companies must provide every employee with a written employment agreement. This worker protection is provided for by the Employment Relations Act 2000. This requirement protects fishers as it provides evidence of the mutually agreed terms of employment.</p> <p>Regardless of whether fishers are employees, foreign crews or share fishers, no contract can be used to avoid obligations to a fishers' rights and protections under relevant legislation (such as health and safety or human rights).</p>
7	Audits and labour inspections
	- Describe any 3rd Party audits and certifications on labour, or labour inspections conducted within the UoC in the last two years.
CH	The labour inspectorate of the Ministry for Business, Innovation and Employment is active in checking various aspects of worker livelihood for fishers working on New Zealand vessels. Maritime New Zealand also manages port inspections of fishing vessels which cover health and safety of the operation, training, manning levels, accommodation, provisions, certification and labour issues. These inspections may be random or they may be instigated by a complaint.
8	National minimum age requirements
	<ul style="list-style-type: none"> <li>- Describe national minimum age requirements for crew members serving on vessels within the UoC.</li> <li>- Describe systems in place, both regulatory and private sector systems, to ensure that crew members meet national minimum age requirements.</li> <li>- Describe how this is checked, including enforcement within the UoC by the responsible governing authority or oversight body such as labour inspectors.</li> </ul>
CH	Fishers must be at least 16 years of age to work on a New Zealand vessel. Some companies have their own policy to not recruit fishers under the age of 18.

<sup>18</sup> <http://nzfiguild.co.nz>

	<p>New Zealand seafood companies who employ or engage young persons (persons under the age of 18 years) on a fishing vessel, must keep a register of such persons.<sup>19</sup></p> <p>The labour inspectorate of the Ministry for Business, Innovation and Employment is active in checking various aspects of worker livelihood for fishers working on New Zealand vessels. Maritime New Zealand also manages port inspections of fishing vessels which cover health and safety of the operation, training, manning levels, accommodation, provisions, certification and labour issues. These inspections may be random or they may be instigated by a complaint.</p>
9	Repatriation
	- Describe how repatriation issues are dealt with in the UoC with respect visits end of contract, voluntary and involuntary termination, and freedom of movement and the extent to which these are included in contracts.
CH	For New Zealand fisheries that do employ or engage foreign crew, the Maritime Transport Act 1994 <sup>20</sup> requires that employers must arrange and pay for all reasonable repatriation expenses of a fisher (e.g. due to a variety of reasons such as injury, illness or shipwreck). <sup>21</sup>
10	Debt bondage
	<ul style="list-style-type: none"> <li>- Describe if there is evidence of systemic practices to impose costs on crew members for placement or brokerage fees, travel to the workplace, visa, medical, safety gear, clothing/protective gear, food at the workplace, communications access, remittance fees, repatriation, etc.</li> <li>- If so, describe such practices and how debt bondage is avoided.</li> </ul>
CH	<p>New Zealand seafood companies can only make lawful and agreed deductions from wages. This worker protection is provided for by Wages Protection Act 1983.</p> <p>An additional protection is that employers can't make deductions that bring the hourly rate below the New Zealand minimum statutory wage for all hours worked.</p>
11	Grievance and remedy mechanisms
	- Please list any policies or measures (e.g. hotline) that are in place for crew voices to be heard and to report and remediate any instances of forced or child labour.
CH	Under the Employment Relations Act, any employee who considers they have been treated unfairly or wrongly dismissed can raise a personal grievance with their employer. Any unresolved dispute would be dealt with by litigation or alternative dispute resolution.
12	Identification documents
	- Describe policies and practice in place across the UoC to ensure that crew members have free and timely access to their identification documents, including National ID, passports, visas, etc.
CH	All crew are entitled to hold their own documentation in their own possession at all times.
13	Additional comments
	- Do you have additional comments on labour practices within the UoC?
CH	No.
14	Date this template was last updated
	- DD/MM/YYYY

<sup>19</sup> Maritime Transport Act 1994 s 26.

<sup>20</sup> Maritime Transport Act 1994 ss 22-23.

<sup>21</sup> Maritime Transport Act 1994 s 22.

CH	29/07/19
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## **3 Appendix – Guidance on filling in the Certificate Holder Forced and Child Labour Policies, Practices and Measures Template**

### **3.1 Composition of the fishery client group on behalf of who the statement is provided**

If a fishery is in full assessment and the cost-sharing participants and arrangements are not yet determined, provide as much detail as possible regarding the expected cost-sharing entities that will comprise the client group, should the fishery achieve certification, and the relationship between such client group representatives and the vessel owners and operators in the Unit of Certification (UoC).

### **3.2 Responsibility for labour regulation**

Provide information on laws and regulation and the authorities that have responsibility for labour regulations in the area in which the fishery operates, including flag state authorities where this is applicable. Describe how these are enforced.

### **3.3 Risk identification, mitigation and remediation**

The information required in this section includes information known by the certificate holder on processes and practices that are applicable in the UoC to identify, assess, prevent and mitigate forced and child labour risks. The information may include government policy or measures, or where applicable, measures being implemented by the certificate holder.

### **3.4 Crew recruitment**

The information required here includes information on the methods used to recruit crew in the UoC, any widespread use of migrant labour, the countries that crew come from and information on recruitment agencies used where this information is available and known to the certificate holder. It may also include information known of visa programs used to bring in workers to the UoC and on payment of recruitment fees.

### **3.5 Engagement with fish worker groups**

In some countries, there may be engagement with fish worker groups or other types of organisations that work to address risks of forced labour. Where this occurs provide information on such engagement. This may include information on any organizations in the port area which support crew members socially, e.g. seafarers' ministry, fishers' association, local committees.

### **3.6 Crew contracts**

Contracts are legal work agreements with labour duties and payments clearly spelled out. Describe the nature of crew contracts in the UoC, specifically features related to forced and child labour, whether the contracts are written in languages understood by crew and how provisions in the contract are enforced.

### **3.7 Audits and labour inspections**

Describe any government labour inspections or social audits and certifications of working conditions within the UoC in the past 2 years. Where the information is available provide a link to the criteria against which the audit took place.

### **3.8 National minimum age requirements**

For this section describe national minimum age requirements and provide a description of regulatory and private sector systems in place to confirm that minimum age restrictions are met. Include information on any exceptions to statutory minimum age requirements which are used by the UoC and information on policy for hiring young workers in compliance with national legislation. This should also include description of any policy or practices for monitoring including hours of work and rest for young workers. This may include information on any other programs which are monitoring labour in your UoC fishing area.

### **3.9 Repatriation**

This section requires a description of how departure of crew members across the UoC is handled. This may include information about government, and/or where known, any applicable company policy on end of crew members'

contracts; involuntary termination; leave (including family visits and medical treatment); freedom of movement during the work term and departure terms within crew member contracts.

### **3.10 Debt bondage**

Deductions for costs of work from pay can cause debt bondage and put crew at risk of forced labour. Examples of such work costs include costs of getting to work, placement/broker fee, medical costs, safety gear, food at the workplace, remittance fees and repatriation costs.

Describe systems in place to avoid debt bondage. If there is evidence of systemic practices to impose costs on workers, what measures are in place to avoid debt bondage.

### **3.11 Grievance and remedy mechanisms**

Provide a description of systems known to be in place that allow crew to share information, access assistance and report labour violations and how the systems work to address such reports and provide remediation.

### **3.12 Identification documents**

Describe provisions across the UoC for crew to access their official identification (passports, visas, seafarers book). Where the law in a jurisdiction requires the vessel owner or captain to hold the crew members' official identification, describe the protocol, including government regulations in place to ensure that crew members can access their personal documents and have freedom of movement.