



Report on WRC Enforcement of the Atypical Worker Permission Scheme in the Irish Sea Fishing Fleet

June 2017.

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1. Executive Summary

1.1 The Atypical Worker Permission Scheme for non-EEA workers engaged on fishing vessels within specific segments of the Irish Fishing Fleet (in the main whitefish vessels over 15 metres in length) has the primary objectives of regularising their status and affording them the protections available under Irish employment rights legislation. Some 200 Atypical Permissions were issued by the Irish Naturalisation and Immigration Service (INIS) to end June, 2017.

1.2 Since February 2016, the Workplace Relations Commission (WRC) has-

- delivered an educational and awareness campaign within the whitefish sector,
- trained ten WRC inspectors at the National Fisheries Training College for deployment on fisheries inspections,
- undertaken 208 inspections of the whitefish fleet, involving 150 of the 176 whitefish vessels over 15 metres in length,
- detected almost 200 contraventions, relating to 110 vessels, to the end of June, 2017, and
- initiated 5 prosecutions where compliance by other means was not secured,

The WRC intends to inspect the remaining 26 vessels by the end of Summer, 2017.

1.3 36% of contraventions relate to failure to produce or to keep records, 20% relate to leave, public holiday and Sunday entitlements, 14% involve the detection of illegal workers while 13% involve a failure to issue payslips. The WRC seeks rectification of contraventions and, where relevant, the payment of any unpaid wages arising from contraventions by means of contravention, compliance and fixed payment notices while vessel owners who fail to engage with Inspectors will be prosecuted.

1.4 Many agencies are involved in effective enforcement of health and safety, living and working conditions and employment regulations on the relevant fishing vessels under the Atypical Worker Permission Scheme. They include the Naval Service, the Marine Survey Office of the Department of Transport, Tourism and Sport, INIS, the Health and Safety Authority, the Workplace Relations Commission, Revenue Commissioners and the Sea Fisheries Protection Authority. Cooperation on the ground and the sharing of information between these agencies is on the basis of an Inter-agency Memorandum of Understanding (MOU). While WRC Inspectors do not have powers to enforce rest break, maximum hours of work, health and safety and living/working conditions requirements, the WRC is happy to work within the MOU on supporting enforcement in these areas.

2. Background

- 2.1 An article in the Guardian newspaper published on 2nd November, 2015 alleged that migrant workers on board Irish fishing vessels had in some cases been trafficked onto vessels for labour exploitation, were paid below minimum wage or were not paid wages, were subjected to extreme sleep deprivation and dangerous working practices and had been denied freedom of movement. The article also suggested that individuals had been routed legally through the UK to Northern Ireland and transported illegally into the Republic of Ireland without any Irish permission or Visa.
- 2.2 The Irish Government established, in November, 2015, a Task Force to 1) examine the issues raised by the Guardian article and to formulate a co-ordinated and effective cross-Government response to the matter and 2) to make recommendations to minimise the risk of exploitation while ensuring that reputable employers are in a position to recruit trained and experienced crew members. The Task Force's Report was published in December, 2015 and its primary recommendation proposed the establishment of a specific atypical worker permission mechanism to allow the structured and transparent employment of non-EEA workers on vessels over 15 metres in length within the Polyvalent, Beam and Specific segments of the Irish fishing fleet. This Scheme was launched by the Irish National Immigration Service (INIS) on 15th February, 2016.
- 2.3 There are over 2,000 vessels in the Irish sea-fishing fleet, approximately 1,800 of which are in the Polyvalent Segment. The majority of vessels in the Irish fishing fleet are 15m and under in length overall. There are some 176 registered whitefish and shellfish vessels over 15m in length.
- 2.4 Up to the early 1980's, fishing vessel crews were predominantly Irish. However, Spanish crew became a major element from the mid-1980s and, following accession of the Baltic States, many Latvian/Lithuanian/Polish crew were engaged. In more recent years, Egyptian and Philipine fishers have tended to predominate.
- 2.5 Traditionally, crew members on fishing vessels were "share fishers", and received a share of the proceeds of the vessel's catch rather than a regular wage. In Ireland share fishers are classified as self-employed rather than as employees and do not, therefore, come within the employment rights and social insurance frameworks. The majority of crew members in the whitefish fleet are engaged under the share fisher arrangement.

- 2.6 The problems highlighted by the Guardian article were concentrated in the main on the larger (>15 metres), labour-intensive Whitefish (Polyvalent and Beam Trawl) vessels whose crew members are usually classified as share fishers and are paid a share of the proceeds of the vessel's catch. The smaller Whitefish vessels (<15 metres) are typically owner-operated with 1-2 crew members while the larger Pelagic vessels are crewed mainly by Irish crew members who are generally paid a significant weekly wage (with potential bonus), are classified as employees and thus fully insured under the Irish Social Insurance system. In contrast, the larger Whitefish vessels (>15 metres) are labour-intensive, multi-crewed vessels. The effect of being share fishers is that employment rights and social insurance frameworks do not apply to this cohort.

3. Enforcement Agencies

- 3.1 It was recognised that enforcement of the Atypical Worker Scheme and associated Task Force measures would require a cross-Government approach and cooperation. An Inter-Agency Memorandum of Understanding (MOU) was accordingly agreed in order to underpin enforcement of the Atypical Worker Permission Scheme for non-EEA fishing crews by the relevant authorities including the Naval Service, the Marine Survey Office of the Department of Transport, Tourism and Sport, INIS, the Health and Safety Authority, the Workplace Relations Commission, Revenue Commissioners and the Sea Fisheries Protection Authority.
- 3.2 The objective of the MOU was to provide for further coordination and cooperation between the relevant enforcement bodies to ensure the effective and efficient enforcement of statutory requirements relating to the employment of non-EEA nationals on Irish-registered fishing vessels, facilitate effective communication and exchange of relevant information, avoid any unnecessary duplication of effort, support a coherent and transparent cross- Government approach, maximise synergies from the actions of all signatories and promote and support compliance. The agencies/organisations with responsibilities in these areas are set out in [Appendix I](#).
- 3.3 Policy in this area is co-ordinated across a number of different Departments and State agencies covering the seafood sector, marine safety, employment law and immigration policy.
- 3.4 The position prior to 2016 was that, in general, no visas or immigration residence permissions were issued to non-EEA nationals to reside in Ireland for the purposes of working in Ireland as fishers or on merchant vessels operating in Irish territorial

waters. Some exceptions were made in respect of crew required for certain types of technical vessels such as marine survey vessels but these were limited in number and duration. Illegal entry to the State and human trafficking are matters that are investigated as part of the lead responsibility of the Minister for Justice and Gardaí when dealing with Trafficking, Migration (visas) and Forced Labour.

- 3.5 In addition Ireland is a party to the 1958 International Labour Organisation (ILO) Seafarers' Identity Documents Convention No. 108. Seafarers' identity documents issued by signatory countries to this convention are recognised by the Irish Immigration Authorities, insofar as such documents meet the required standards as prescribed under the Convention.
- 3.6 In accordance with our EU obligations, Ireland's employment permits policy is designed to encourage the meeting of general labour and skills needs from within the workforce of the EU and other European Economic Area (EEA) countries. Ireland's labour market is part of a much greater EEA labour market which affords a considerable supply of skilled workers. In areas where specific skills prove difficult to source within the EEA, an employment permit may be sought to hire a non-EEA national. Ireland has not deemed there to be a skills shortage for fishers that could not be filled from within the EEA and consequently the issue of employment permits for this category of worker has not arisen.
- 3.7 The Department of Justice and Equality (Irish Naturalisation and Immigration Service - INIS) in agreement with the Department of Jobs, Enterprise and Innovation, administers Atypical Working Schemes in general. The purpose of such Schemes is to provide a streamlined mechanism to deal with atypical, short term employment or certain other employment situations which are not governed by the Employment Permits Acts or by current administrative procedures under the Employment Permits Acts.
- 3.8 Human Trafficking remains a policing priority for An Garda Síochána (the Irish Police Force) which works closely with a range of State and civil society organisations to prevent and combat human trafficking. Over the past number of years, strong legislative, administrative and operational measures have been put in place in Ireland to combat and prevent trafficking in human beings. The Criminal Law (Human Trafficking) Act 2008, with penalties of up to life imprisonment for human trafficking, greatly strengthened the law in this area and this legislation has been further bolstered in 2013 with new forms of exploitation, for forced begging and forced criminal activities being provided for in new legislation. The 2013 Act also includes a definition for forced labour in line with the definition in ILO Convention No. 29 on Forced Labour. A dedicated Anti-Human Trafficking Unit was established in

the Department of Justice & Equality in 2008 with the purpose of ensuring that the State's response to human trafficking is coordinated and comprehensive.

- 3.9 A project led by An Garda Síochána was established specifically to address the concerns in relation to potential human trafficking in this sector. This project aims to provide a comprehensive and multi-disciplinary approach to the issue, involving a broad range of competent State Agencies (including relevant marine, immigration and employment rights authorities) and civil society organisations.
- 3.10 Where fishers are employees, as opposed to genuinely self-employed share fishers, Workplace Relations Commission (WRC) Inspectors are responsible for enforcing compliance with the National Minimum Wage, Payment of Wages, Terms and Conditions of Employment, Employment Agency and Employment Permits Acts in respect of seafarers employed on board Irish registered vessels. Irish employment law, however, does not apply to seafarers employed on foreign registered vessels or to persons classed as 'share fishers' for Revenue purposes, who are deemed to be self-employed and, therefore, fall outside the remit of WRC Inspectors. Inspectors of the WRC have statutory powers to share information and carry out inspections with other State Bodies and such joint inspections, together with information sharing, take place on a regular basis across all employment sectors (including the fishing industry).

4. Response

- 4.1 The Task Force reported in December, 2015 and made a number of recommendations to address the issues relating to undocumented workers in the fishing industry.
- 4.2 A sector-specific Atypical Worker Permission Scheme has been put in place to regulate the engagement of existing and future non-EEA workers on whitefish vessels over 15 metres in length. The Scheme was opened for applications on 15th February, 2017 and is administered by the Irish National Immigration Service (INIS) with support from the Department of Agriculture, Food and the Marine. 199 Atypical Permissions under this Scheme were issued by INIS to non-EEA nationals in the period to end June, 2017. Further details in relation to this Scheme are set out in [Appendix 2](#).
- 4.3 In follow up to the Task Force Report, a Risk Profiling and Inspection Group, chaired by the Workplace Relations Commission and comprising representatives of the relevant enforcement agencies, was established to formulate a risk profile for the

sector in order to inform inspection and enforcement operations. That Group met with a number of stakeholders and reported to the Departments of Jobs, Enterprise and Innovation, Agriculture, Food and the Marine and Justice and Equality in October, 2016.

- 4.4 Several supportive and information sharing arrangements have been agreed across the relevant Departments and Agencies. For example, details of applications for, and the grant of, Atypical Permissions are routinely made available by the Irish Naturalisation and Immigration Service (INIS) to the Workplace Relations Commission (WRC) while the Naval Service, through the Sea Fisheries Protection Authority (SFPA), advises the WRC on the outcomes of inspections of polyvalent, beamer and specific segments vessels over 15 metres. The Fisheries Monitoring Centre (FMC), provides, where available, information on scheduled landings to facilitate targeted inspections.
- 4.5 The Workplace Relations Commission accesses publicly-available AIS (Automatic Identification Systems) satellite tracking systems to monitor vessel movements and thus facilitate inspection operations. In the context of the MOU arising from the Report of the Task Force, the WRC has an agreement with the Irish Fisheries Monitoring Centre, operated jointly by the Irish Naval Service and the Sea Fisheries Protection Authority, which provides prior notification to the WRC of the landing of certain vessels.
- 4.6 The Garda National Immigration Bureau (GNIB) and the Garda National Protective Services Unit (GNPSU) and the WRC work closely in terms of the reporting of potential immigration and human trafficking issues encountered during inspections.
- 4.7 In February and March, 2016 the Workplace Relations Commission carried out a number of 'educational' inspections in fishing ports and landing places. The objective was to brief owners on the requirements relating to the engagement of non-EEA workers on Irish fishing vessels, including the Atypical Scheme requirements and to promote an awareness of employment rights and obligations relating to employees generally.
- 4.8 In January, 2016, 6 Inspectors of the Workplace Relations Commission received training, delivered by the Irish Sea Fisheries Board (Bord Iascaigh Mhara) at the National Fisheries Training College, in relation to safety at sea and sea survival techniques, including fire fighting and first aid. Such training was a prerequisite to the deployment of Inspectors for on-board inspections and operations at ports and landing places. By the end of April, 2017 10 Inspectors had completed training and were available for fisheries enforcement operations. Inspectors have also been

provided with Personal Flotation Devices (PFDs) and Personal Locator Beacons (PLBs).

- 4.9 Over 200 inspections, covering 150 vessels, of whitefish vessels were undertaken by WRC Inspectors from April, 2016 to the end of June, 2017. Further details in this regard are set out in Section 4.
- 4.10 In addition to on-going inspection and compliance activities, there have to date been two specific, targeted operations, viz. **Operation Egg Shell** and **Operation Trident**. Further details in this regard are set out in Section 4.
- 4.11 A number of information and awareness measures have been introduced by the WRC to enhance compliance. These include
- a) Engagement with stakeholders (including the International Transport Federation, the Fish Producer Organisations and the Santa Marta Group)
 - b) participation by the WRC in Fisheries Information Events organised by the Sea Fisheries Protection Authority (SFPA)
 - c) 'educational' inspections undertaken by the WRC in quarter 1 of 2016,
 - d) distribution of a WRC leaflet on the Atypical Scheme and employment rights for workers on fishing vessels,
 - e) Useful content on www.workplacerelations.ie
 - f) A WRC contact helpline for fishing vessel owners and crews (T: 1890 80 80 90)
 - g) Briefings provided to owners and skippers prior to inspections
 - h) A detailed inspection appointment letter setting out the records and documentation to be produced at inspections
 - i) A standard WRC letter to all owners who have been issued by INIS with Atypical Permissions setting out the steps that need to be taken to ensure full compliance
 - j) Active engagement by Inspectors with owners, skippers and crews throughout the inspection process.

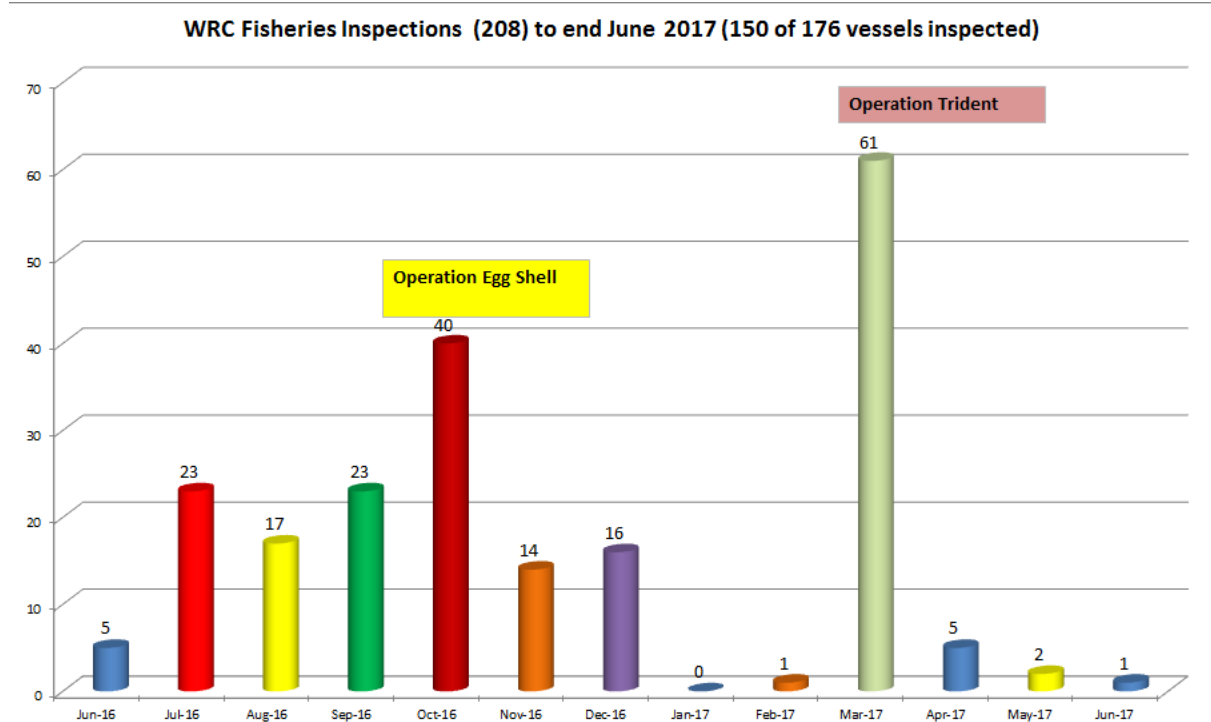
5. Employment Rights and Permissions Inspections

- 5.1 This Section sets out WRC activities and operations to date insofar as the enforcement of the Atypical Worker Permission Scheme is concerned. The outputs and outcomes do not encompass the operations of other enforcement agencies involved in the operation of the Memorandum of Understanding (MOU) insofar as rest breaks, maximum working hours and working conditions (Department of

Tourism, Transport and Sport-Marine Survey Office), health and safety (the Health and Safety Authority) and human trafficking (Garda Siochana) are concerned.

5.2 208 inspections of whitefish vessels were undertaken by WRC Inspectors from April, 2016 to the end of June, 2017. 150 of the 176 whitefish vessels which come within the scope of the Atypical permission Scheme were inspected in that period. The Commission’s objective is to inspect the remaining 26 vessels by August, 2017.

5.3 In addition to on-going inspection and compliance activities, there have to date been two specific, targeted operations. **Operation Egg Shell**, which was led and coordinated by An Garda Siochana and involved a number of enforcement agencies, took place on 5th and 7th October, 2016 and focussed on labour exploitation and human trafficking in the fishing industry. **Operation Trident**, which took place from 29th to 31st March, 2017, involved unannounced inspections at several fishing ports by WRC Inspectors.



5.4 The objective of WRC inspections is to determine compliance with a range of employment rights entitlements and obligations including those relating to minimum wage rates, the payment of wages, employment records and terms of employment and to work with employers to address compliance issues including the payment of any unpaid wages arising from contraventions. The enforcement of hours of work and rest requirements in the fishing industry is undertaken by authorised officers of the Department of Transport, Tourism and Sport (DTTAS).

5.5 WRC Inspectors also enforce the Employment Permits Acts, and, in the fishing industry, the Atypical Worker Permission Scheme, which regulate and control the employment of non-EEA nationals within the State.

5.6 Inspections may involve

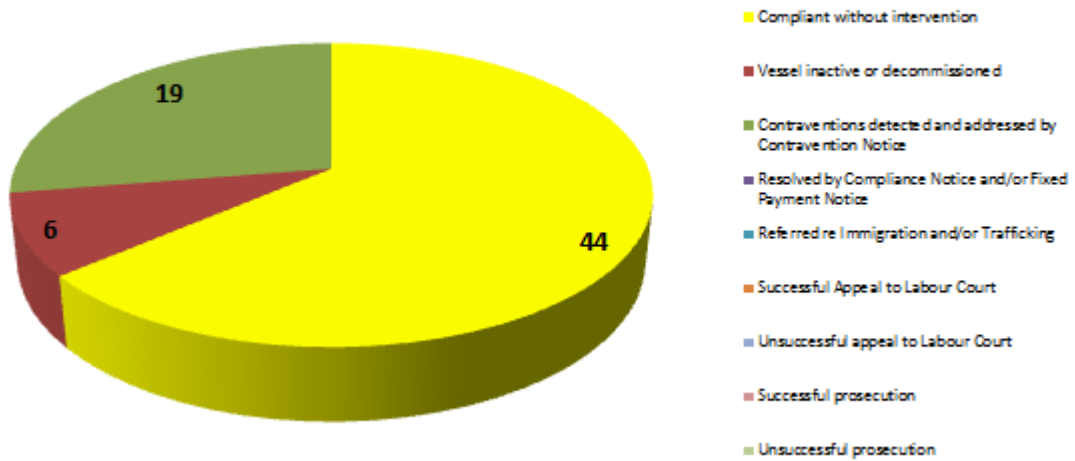
- a) Surveillance,
- b) On-board inspections of records and interviews with crews,
- c) On-shore inspections of records at the owner's premises, and
- d) Interviews with crews in fishing ports and landing places.

5.7 WRC Inspectors have deployed a range of interventions depending on the outcome of inspections and associated enquiries. These may include

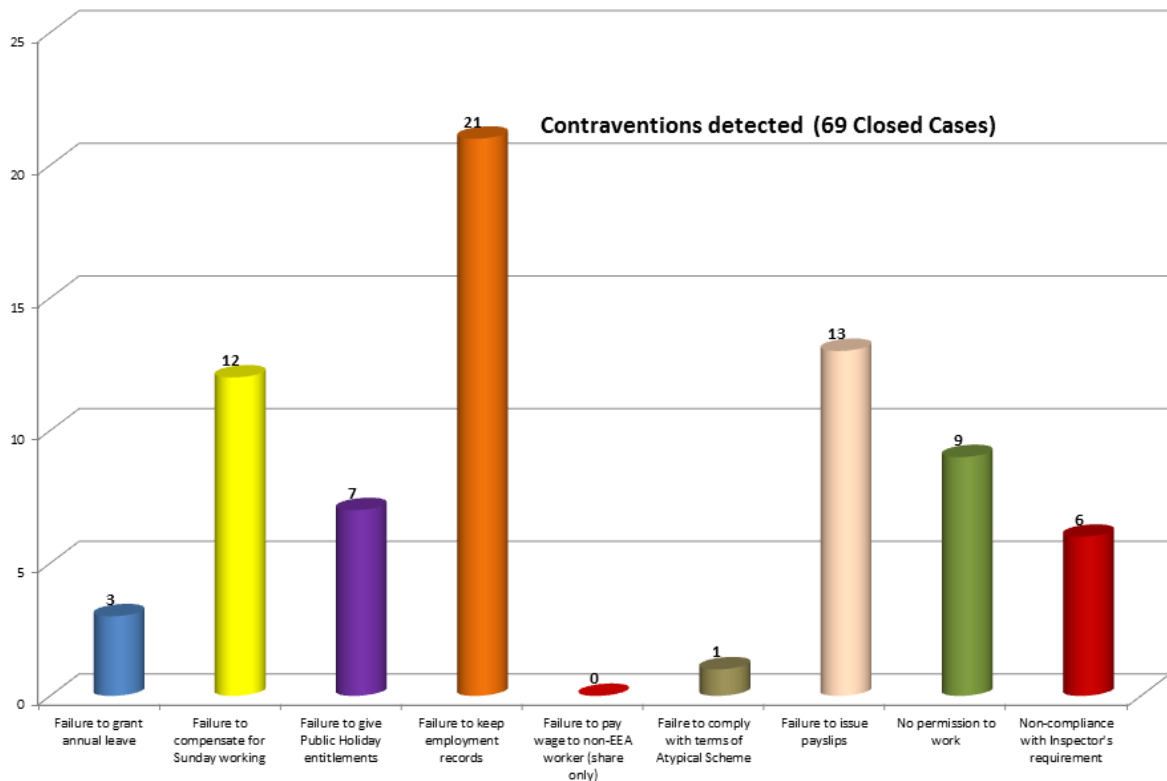
- The issue of a notification to a worker that he/she has no permission to work (where non-EEA worker detected with no permission to work),
- The issue of a contravention letter setting out contraventions of the legislation and action required by the vessel owner,
- The issue of a Compliance Notice (in the case of certain contraventions not rectified following issue of a contravention letter),
- The issue of a Fixed Payment Notice (in the case of certain contraventions not rectified following issue of a contravention letter),
- Referrals to the Garda National Immigration Bureau (GNIB) and/or the Garda National Protective Services Unit, and/or,
- Prosecutions.

5.8 Inspections and associated enquiries and follow up were completed by the WRC in respect of 69 vessels to the end of June, 2017. The Figure below shows the outcomes in these cases.

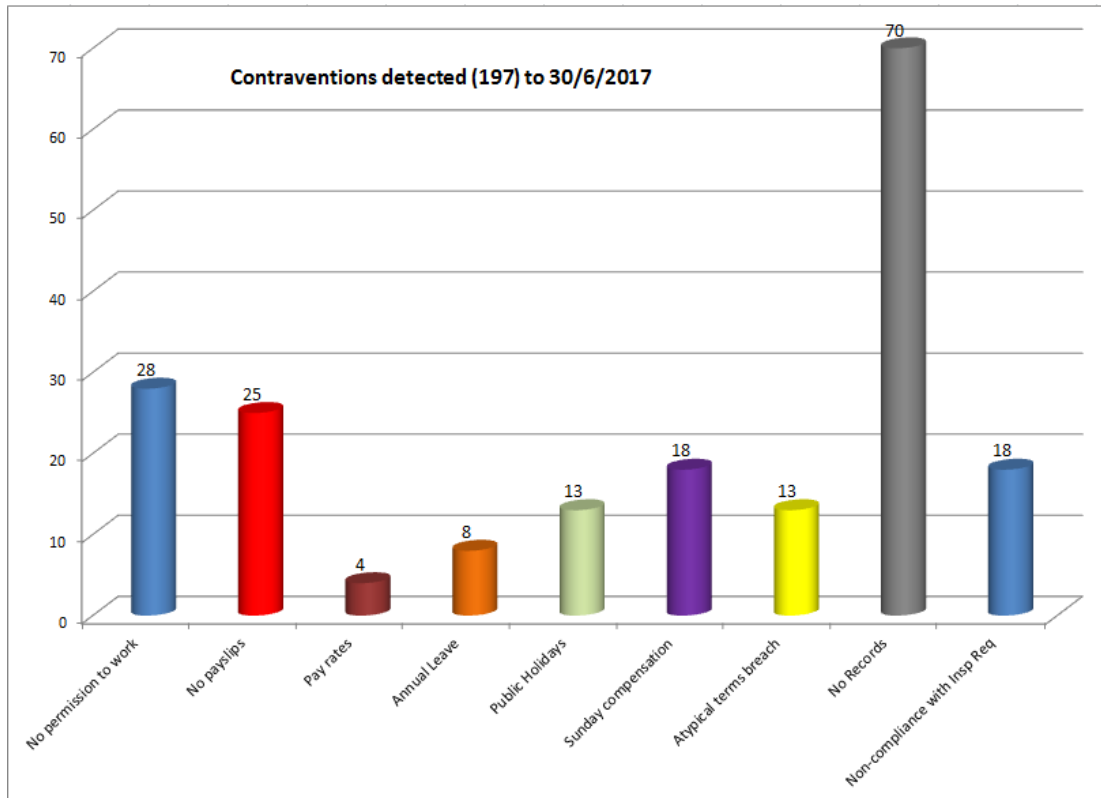
Closed Cases (69 to 30/6/17)-Outcomes



5.9 The Figure below shows the contraventions detected in cases closed to end June, 2017.



5.10 Some 197 contraventions were detected to end June, 2017 across the 150 vessels inspected in that period.



- The contraventions relate to 110 of the 176 target vessels
- 36% of contraventions relate to records
- 20% of contraventions relate to leave, bank holiday and Sunday entitlements
- 14% of contraventions relate to illegal workers
- 13% of contraventions are failures to issue payslips
- In 9% of cases, owners are not cooperating

5.11 The WRC objective is to achieve compliance and, where possible, to avoid recourse to legal proceedings (compliance notices and fixed payment notices) and prosecutions. It is in this light that the WRC actively engages with employers (and in this case with vessel owners) in a manner that produces compliance. While every effort is made to secure compliance, some employers fail to rectify contraventions and/or to pay unpaid wages due to their employees. In some cases also, employers continue to employ those who do not have permission to work in the State. It is in these instances that legal proceedings and/or prosecutions are initiated. Five prosecutions have to date been initiated against whitefish vessel owners (i.e. 3.3% of vessels inspected to date). This is in line with the incidence of WRC prosecutions generally across all sectors (3% in 2016).

5.12 The WRC maintains a database of vessels coming within the aegis of the Atypical Permission Scheme and this now incorporates a risk profiling of all vessels. In this

regard, vessels are accorded a risk rating from 1 (Low Risk) to 5 (High Risk) based on a number of criteria including

- The extent of engagement and cooperation with the WRC,
- Whether or not Atypical Permissions have been issued in respect of workers on the vessel,
- Whether contraventions and/or offences have been detected by the WRC and/or other enforcement agencies,
- Information arising from inspections and associated enquiries,
- Information shared with the WRC under the Memorandum of Understanding,
- Interviews with vessel owners, skippers and crews, and
- Whether complaints have been made by workers or others relating to the vessel.

This Risk Profile significantly informs vessel targeting and inspections.

Appendix 1: Role of Relevant Enforcement Agencies/ Organisations

Organisation	Role/Responsibilities
Department of Transport, Tourism and Sport (DTTAS)	DTTAS authorised officers inspect compliance with and enforce rest period and maximum working time regulations ¹ and regulate the safety, security, pollution prevention and living and working conditions of all Irish ships and crews and foreign flagged ships and crews in Irish ports
Department of Justice (Irish National Immigration Service-INIS)	INIS is responsible for administering the functions of the Minister for Justice in relation to asylum, immigration (including visas) and citizenship matters. INIS maintains close contact with the Garda National Immigration Bureau (see below) in relation to many aspects of its work.
Department of Jobs, Enterprise and Innovation	The Department's responsibilities include the promotion of quality employment, positive workplace relations, well-functioning dispute resolution mechanisms, a safe working environment and the evolution of the minimum wage. The Department also operates the Employment Permits System to regulate the entry of individuals from non EEA countries through a flexible approach reflecting the changing nature of immigration.
Bord Iascaigh Mhara (BIM-the Irish Sea Fisheries Board)	BIM provides training to the seafood sector across all its main activities (fishing, farming, processing, retailing, passenger boats, as well as health & safety). For seagoing personnel, training focuses on i) safety at sea including Basic and Enhanced Safety Training, ii) preparation of candidates for DTTAS Certificates of Competency, and iii) Safety & Health at Work. It is mandatory for all fishing vessel personnel to undergo training in Personal Survival Techniques, Elementary First Aid, Fire Prevention and Safety Awareness & Risk Assessment. Those who successfully complete Basic Safety Training are issued with a BIM Safety Card.
Sea Fisheries Protection Authority (SFPA)	Physical inspection of active fishing vessels at sea or at the place of landing are undertaken by Sea Fisheries Protection Officers (SFPO's) of the SFPA and the Naval Service to determine compliance with the rules in force in relation to their fishing area, target species or any other relevant EU or national requirements. The SFPA, in conjunction with the Naval Service, operates the Irish Fisheries Monitoring Centre.
Health and Safety Authority (HSA)	The HSA regulates workplace safety and health and enforces occupational health and safety legislation across all areas of employment and impacting on every person at work in the State. The primary provisions affecting the fishing sector relate to hazard identification, risk assessment and provision of a safety statement, consultation with staff and communication of the safety statement to all people who may be affected and appropriate use of personal protective equipment where other controls are not available. The HSA has an inspectorate with specific expertise, experience and training in workplace safety and health.
Naval Service	The Naval Service assists the relevant authorities in relation to fisheries protection, inspects fishing vessels at sea or at the place of landing to determine compliance

¹ European Communities (Merchant Shipping) (Organisation of Working Time) Regulations 2003 (S.I. No. 532 of 2003) and the European Communities (Workers on Board Sea-going Fishing Vessels) (Organisation of Working Time) Regulations 2003 (S.I. No. 709 of 2003)

Organisation	Role/Responsibilities
	with the rules in force in relation to their fishing area, target species or any other relevant EU or national requirements and, in conjunction with the SFPA, operates the Irish Fisheries Monitoring Centre.
Garda Siochana (Irish Police Force) and Garda National Immigration Bureau (GNIB)	The Garda (Irish Police Force) is also responsible for the prevention and detection of human trafficking and forced labour. The GNIB carries out deportations, border control and investigations relating to illegal immigration. All non-nationals who are not citizens of a member State of the European Union, the European Economic Area or Switzerland, must register with An Garda Síochána (Irish Police Force) and at all times have a valid registration certificate in the form of a GNIB Card. A multi-agency 'North Atlantic Fisheries Project' which is part of the global 'Santa Marta Group', is coordinated by the Garda and aims to identify and support victims of human trafficking within the maritime sector.
Workplace Relations Commission (WRC)	WRC Inspectors carry out inspections for the purposes of monitoring and enforcing compliance with employment rights and employment permits legislation, including National Minimum Wage, Payment of Wages, Organisation of Working Time, Terms of Employment and Employment Agency legislation. Such inspections relate to persons engaged under a contract of employment (employees) with the exception that DTTAS officers inspect for compliance with rest period and maximum working hours requirements in the fishing and merchant shipping sectors.

Appendix 2-Atypical Worker Permission Scheme

1.1 The Task Force recommended a new sector specific Atypical Worker Permission system which would enable employers in specific parts of the Irish Fishing fleet, under a structured and transparent framework, to source and employ workers from non-EEA countries. The scheme developed provides that employees will be guaranteed, at a minimum, the national minimum wage and statutory terms and conditions in accordance with national law, which will be underpinned by the requirement for employers to provide a legally binding contract of employment.

1.2 The main features of the Scheme are as follows:-

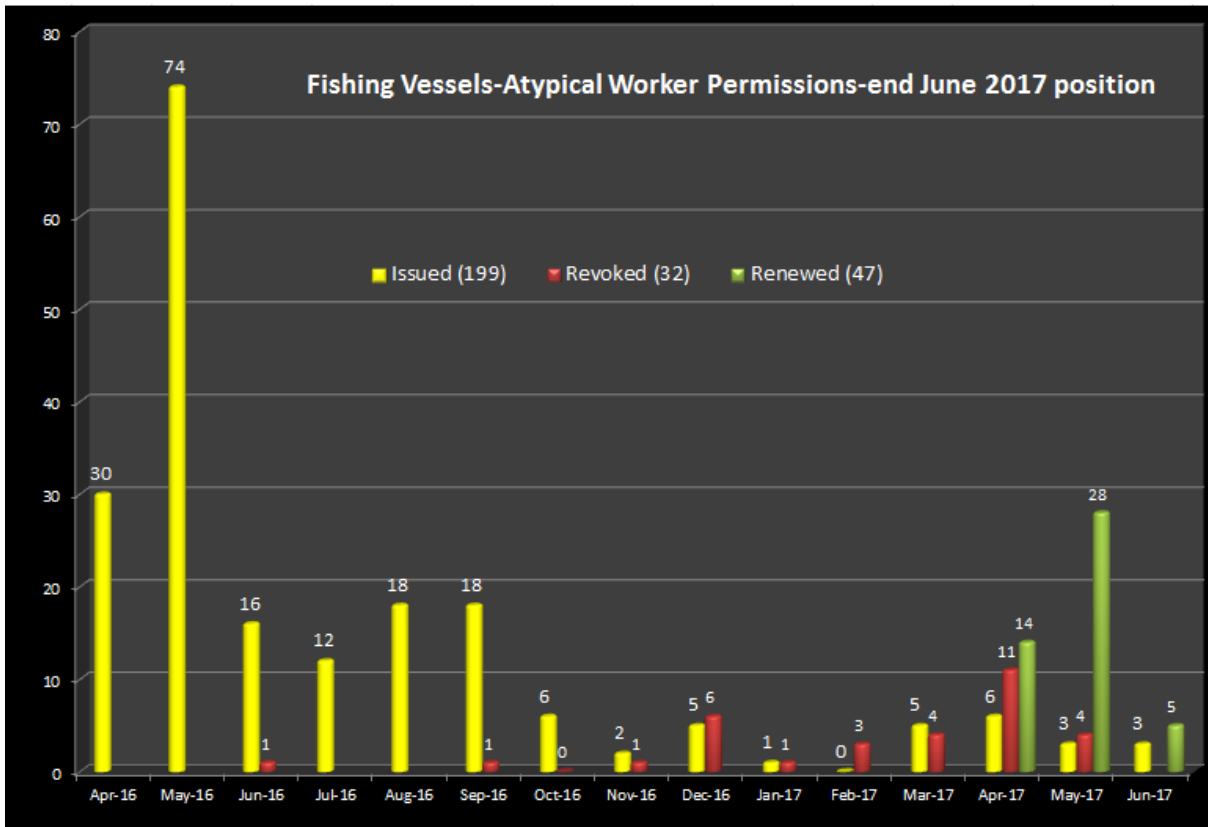
- The Scheme provides for the issue by the Irish National Immigration Service (INIS) of atypical worker permissions to eligible non-EEA workers engaged or to be engaged on whitefish (>15 metre) vessels.
- The Scheme permits the employment of maximum of 500 non-EEA workers at any given time on eligible vessels,
- The Scheme provides for cross-sectoral pre-clearance for prospective workers (retrospectively applied to existing workers who registered within 3 months of the commencement date of the scheme).
- Employees are required to provide all necessary backup documentation such as proof of identity, birth certificates, passports, evidence of previous employment and/or relevant experience in the fishing sector, professional qualifications/training in fishing and safety at sea, etc.
- Employers, who must be licensed vessel owners, are responsible for ensuring that a valid contract of employment, certified by a Solicitor and drafted in accordance with National and EU employment rights legislation, is in place.
- Employers are responsible for putting in place repatriation arrangements for employees on termination of the contract.
- the State has set up a depository of contracts and monitors the overall level of contracts (capped at a maximum of 500).

1.3 In order to qualify for an Atypical Worker Permission for Non-EEA Fishing Crews, there must be a contract of employment in place between the employer (vessel

owner) and employee (non-EEA crew member). The detailed conditions are as follows:-

- The Atypical Working Scheme only applies to crew members working on licensed and registered fishing vessels in the Polyvalent, Beamer and specific segments of the Irish Fishing Fleet for vessels more than 15 metres in length overall.
- The crew member must be employed directly by the holder of a sea-fishing boat licence in Ireland.
- The crew member must have a written contract of employment for a duration of 12 months. The minimum conditions of employment under the contract are set out as conditions of the granting of the Atypical Permission.
- The contract must be certified by a practicing solicitor in compliance with the conditions for the employment of non-EEA crew members.
- At least 50% of the members of the crew must be nationals of any of the Member States of the European Union.
- Employers/owners must comply with all relevant requirements under EU and National Law including those relating to terms of employment, the National Minimum Wage, maximum hours of work, minimum hours of rest, employment records, taxation and social insurance.
- Employees are to be paid, in respect of the 12 month period, a minimum equal to the amount which he/she would have received by virtue of the National Minimum Wage if he/she had worked 39 hours per week for 52 weeks with payment to be made at least monthly in arrears to the employee's bank account.
- The employment contract must be lodged with the Central Depository (CDPA) for Sea-Fishing Boats at the National Seafood Centre, Clonakilty, Co Cork.
- Each contract will be given a unique identifying number by CPDA.
- This number must be stated on the Atypical Working Scheme application form.
- Within 10 days of commencement of employment, the Solicitor on behalf of the Employer/Owner must provide the CDPA with a certificate of commencement.

- Within 9 days of commencement of employment, the Solicitor on behalf of the Employer/Owner must notify the Irish Revenue Commissioners that the employee has commenced employment.
 - In common with other persons who have immigration permission in excess of 3 months duration, non-EEA fishers who are granted atypical permissions are required to register with the Garda National immigration Bureau (GNIB).
- 1.4 The Atypical Permission Scheme for non-EEA workers on Irish Fishing Vessels opened for applications on 15th February, 2016. For approximately the first 3 months, applications under the Scheme were confined to non-EEA crew members who were already working in Ireland. Following this initial period, applications were only accepted from outside Ireland. As a consequence, anyone working without permission from 1 July, 2016 had to leave Ireland and apply from abroad. This included applying for a visa, where necessary.
- 1.5 Initially at least, there was a slow uptake on the Scheme. In this regard, no permissions were issued from the launch of the Scheme (mid-February, 2016) until April 2016. This was mostly attributable to lack of knowledge among vessel owners about the details of the Scheme. The level of applications began to increase as the information campaign reached fully into the fishing community. 199 permissions were issued to the end of June, 2017.
- 1.6 The Atypical Permission Scheme provides for the renewal of permissions on the expiry of the initial 12 month employment period. Applications for renewal must be made before expiry of the initial permission. 47 permissions were renewed to the end of June, 2017.



1.7 Some 47% and 40% of permissions have been issued to Egyptian and Philippine nationals respectively.

