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ESCA Guideline No.1, Appendix 3

Claims for compensation for damage or loss of fishing gear
and disturbance – Claim Forms and Guidance Notes

Document History

Version	Name	Comments	Date
1		Initial issue	Aug 2001
2		Revision to format	Sep 2006
3		Name change. updated	Sep 2010
4	Peter Jamieson	Format Change	Nov 2010
5	Colin Rayman	General Revision	Nov 2012
6	Colin Rayman	Update	Feb 2014
7	Colin Rayman	Update to item 2 of claim form	Mar 2015
8	Secretary	Re-branding to ESCA	Apr 2016

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1 CLAIM FORM FOR LOSS OF OR DAMAGE TO FISHING GEAR DUE TO FASTENING TO A SUBMARINE CABLE

From: The Fishery Officer	To:
NOTE 1	NOTE 2
Name, letters & port of registry of fishing vessel:	Name and address of vessel owner:
VAT Registration N ^o .:	Name of skipper:
Date and time of damage:	Date, time and port of return:
Date of reporting:	Date of submission:
NOTE 3	
Main propulsion (HP):	Main winch (tonnes):

Tonnage gross:	Tonnage net:
Position (Lat/Long):	Range and bearing from:
Chart in use, Number, Publisher, date, corrected to N to M: Evidence of the use of Cable Awareness Charts	Electronic nav aids in use and accuracy:
Depth:	Nature of seabed:
Direction and strength of tide/current:	Sea state:
Weather:	Visibility:
Direction/course of vessel:	Direction & distance the gear extended from the vessel:

Age of gear and condition at time of loss: Note 4	Normal life expectancy of this type of gear: Note 4
Were spares held on board:	Date & port of departure:
Reason for assuming a cable had been fouled:	
If cable sighted, whether tight or slack:	Direction of cable track:
While foul of cable was the safety of the vessel in doubt?	
Full description of the occurrence:	

Total amount being claimed:		
<p>I declare that the above statement and the facts supplied are true. I clearly understand that in making the claim it does not in any way imply agreement with or acceptance by either the Fishery Officer or the cable owner.</p>	Name of declarant	
	Signature	
We, the undersigned members of the crew of the vessel herein referred to certify the above particulars are true to the best of our knowledge and belief.		
Name	Signature	Rank
Name	Signature	Rank
Name	Signature	Rank
Fishery Officer's input:		
Are you of the opinion that:	<p>The claim is genuine?</p> <hr style="border-top: 1px dashed black;"/> <p>The declarant's statements are accurate?</p>	

The amounts claimed are fair and accurate?	
Did you inspect/sight the vessel and/or damaged gear?	Is the damage consistent with fastening to a cable?
Name	Signature
Comments:	
NOTE: Vessel VMS data 12hrs before and 12hrs after the incident <u>must</u> be provided	
To be continued on a separate sheet if necessary	

NOTES:

Article VII of the Submarine Telegraph Convention, 1844 (scheduled to the Submarine Telegraph Act, 1885), provides as follows:

“Owners of ships or vessels who can prove that they have sacrificed an anchor, a net, or other fishing gear in order to avoid injuring a submarine cable, shall receive compensation from the owner of the cable.”

“In order to establish a claim for such compensation, a statement, supported by the evidence of the crew, should, whenever possible, be drawn up immediately after the occurrence; and the master must, within twenty four hours after his return to, or next putting into port, make a declaration to the proper authorities.”

- 1 The form is to be checked by a Fisheries Officer of the proper authority (MMO in England, Marine Scotland in Scotland, DARD in Northern Ireland or WAGAFD in Wales) at the first port of arrival following the alleged incident.
- 2 The form is to be posted to the company believed to be the owner or operator of the cable involved (see KIS-ORCA Cable Awareness Charts for assistance and information).
- 3 The incident is to be reported to the proper authority within 24 hours of arrival at that port, as above.
- 4 A description and estimate of the present value of the gear, supported by receipts and/or estimates for replacement gear, should be detailed on separate sheets. A photocopy of the relevant page(s) of the vessels deck log book covering the incident should be included with the claim where appropriate. (*Mariner’s Handbook NP100, covering claims for loss of gear from fouling on submarine cables and pipelines, states that an entry of any incident must be made in the deck log book*). It is essential that the vessel owner making the claim submits the vessel VMS data in the form of a track plot for the period 12hrs before the incident and 12hrs after the incident. If the VMS data is not submitted this could invalidate any claim. In addition, evidence of the use of Cable Awareness Charts will be required to support any claim.

A correctly completed form supported by the necessary documentation will greatly assist the cable owner in determining whether compensation is applicable and, if it is, will result in faster settlement.

2 CLAIM FORM FOR DISTURBANCE DUE TO CABLE INSTALLATION OR REPAIR OPERATIONS

From:		To:	
NOTE 1		NOTE 2	
Name, letters and port of registry of fishing vessel:		Name and address of vessel owner:	
VAT registration number:		Name of skipper:	
Cable system being installed or repaired:			
NOTE 3			
Date of commencement of operations:	Date of completion of operations:	Total number of days:	
Quantity of pots/nets affected by these operations:	Position of strings (Lat and Long):	Direction of strings:	
Comments:			
NOTE 4			
To be completed on a separate sheet if necessary			

<p>I declare that the above statement and the facts supplied are true. I clearly understand that in making the claim it does not in any way imply agreement with or acceptance by the cable owner.</p>	Name of the claimant:
	Signature:

Along with this documentation a copy of your Buyers and sellers data from 3 weeks prior to the cable operations, during the operations and then 3 weeks after the operations is required. From this data a daily average will be calculated, taking into consideration the continuation of fishing, and from this a disturbance value will be calculated. NOTE 5

Where applicable vessels must submit logbook data with fishing positions for the 3 weeks prior to cable operations, during operations and then 3 weeks after the operations. NOTE 6

Notes:

1. The claimant should provide his full name and address here.
2. The form is to be posted to the company believed to be the owner or operator of the cable involved (see KIS-ORCA Cable Awareness Charts for assistance and information).
3. The cable owner or his agent will provide this information.
4. Any supporting information which will strengthen the claim should be detailed on separate sheets.
5. Buyers and Sellers data must be in the form of buyer’s information or sales notes.
6. This is only applicable to vessels over 10 metres.
7. Please note that evidence of the use of Cable Awareness Charts will be required, as will (where applicable) vessel VMS data for the vessel track 12 hours prior to and through to 12 hours after the incident.

A correctly completed form supported by the necessary documentation will greatly assist the cable owner in determining whether compensation is applicable and, if it is, will result in faster settlement.

3 CLAIM FORM FOR LOSS OF OR DAMAGE TO FISHING GEAR DUE TO CABLE INSTALLATION OR REPAIR OPERATIONS

From:	To:
NOTE 1	NOTE 2
Name, letters & port of registry of fishing vessel:	Name and address of vessel owner:
VAT Registration N ^o .:	Name of skipper:

Cable system being installed or repaired		
NOTE 3		
Date of commencement of operations:	Date of completion of operations:	Days:
Quantity of pots/nets damaged by these operations:		
Sum agreed per pot/string:	Any other related claim:	Total claimed:
Comments:		

- 2 The form is to be posted to the company believed to be the owner or operator of the cable involved, see KIS-ORCA Cable Awareness Charts for assistance and information.
- 3 The cable owner or his agent who will provide this information.
- 4 Any supporting information which will strengthen this claim, and a description and estimate of the present value of the gear, supported by receipts and/or estimates for replacement gear should be detailed on separate sheets. A photocopy of the relevant page(s) of the vessels deck log book covering the incident should be included with the claim where appropriate. (*Mariner's Handbook NP100, covering claims for loss of gear from fouling on submarine cables and pipelines, states that an entry of any incident must be made in the deck log book*).

A correctly completed form supported by the necessary documentation will greatly assist the cable owner in determining whether compensation is applicable and, if it is, will result in faster settlement.

4 FASTENING DISCLAIMER

[Name]

[Address.....]

[.....]

[.....]

[.....]

[Date]

WITHOUT PREJUDICE

Dear [Claimant Name]

[Vessel Name]

I write with reference to your claim for compensation dated the []th day of [] 200_, made under the terms of Article VII of the Schedule to the Submarine Telegraph Act 1885.

I have now investigated your claim and am pleased to inform you that [Cable Company] are prepared to authorise payment of the sum of £[] in full and final settlement of your claim.

If this offer is acceptable to you, please complete, sign and return the attached payment authorisation to me in order that I can arrange for a cheque to be issued for this amount.

Yours sincerely

[Signatory]

[Title]

cc [Cable Company]

[Local MMO]

[Local/National Fisheries Organisation(s)] (*where appropriate*)

To: [.....]
[.....]
[.....]
[.....]

I agree to accept the sum of £[] (GBP) ([] thousand, [] hundred and [] Pounds Sterling and [] Pence) in full and final settlement of all claims, costs or damages whatsoever arising out of or in connection with damage to property sustained on or about [day and month] 200_ as per my written request for compensation dated [day and month] 200_ against [Cable Company] of registered office [Registered Address], and/or its subsidiary and/or its associated companies, servants, employees or agents, made pursuant to the provisions of Article VII of the Schedule to the Submarine Telegraph Act 1885.

I agree to waive all or any claims against [Cable Company] and/or its subsidiary and/or its associated companies, servants, employees or agents, arising from said loss.

It is understood that this payment is made without admission of liability on the part of [Cable Company] and/or its subsidiary and/or its associated companies, servants, employees or agents. I have read and understood the nature of this document.

I hereby authorise [Cable Company] to send a cheque for this sum direct to me at:

Address: _____

Name (in capitals): _____

Signed: _____

Witness: _____

Date: _____

Capacity: _____

Name of fishing vessel: _____

Name of owner: _____

VAT Registration number: _____

5 INSTALLATION OR REPAIR DISCLAIMER

[Name]

[Address.....]

[.....]

[.....]

[Date]

WITHOUT PREJUDICE

Dear [Claimant Name]

[Vessel Name]

I write with reference to your claim for compensation dated the []th day of [] 200_, made under the terms of the Telecommunications Act 1984, Schedule 2, Article 11, paragraph (6).

I have now investigated your claim and am pleased to inform you that [Cable Company] are prepared to authorise payment of the sum of £[] in full and final settlement of your claim.

If this offer is acceptable to you, please complete, sign and return the attached payment authorisation to me in order that I can arrange for a cheque to be issued for this amount.

Yours sincerely

[Signatory]

[Title]

cc [Cable Company]
[Local MMO]
[Local/National Fisheries Organisation(s)] (*where appropriate*)

To: [.....]
[.....]
[.....]
[.....]

I agree to accept the sum of £[] (GBP) ([] thousand, [] hundred and [] Pounds Sterling and [] Pence) in full and final settlement of all claims, costs or damages whatsoever arising out of or in connection with damage to property sustained on or about [day and month] 200_ as per my written request for compensation dated [day and month] 200_ against [Cable Company] of registered office [Registered Address], and/or its subsidiary and/or its associated companies, servants, employees or agents, made pursuant to the provisions of Schedule 2, Article 11, paragraph (6) of the Telecommunications Act 1984.

I agree to waive all or any claims against [Cable Company] and/or its subsidiary and/or its associated companies, servants, employees or agents, arising from said loss.

It is understood that this payment is made without admission of liability on the part of [Cable Company] and/or its subsidiary and/or its associated companies, servants, employees or agents. I have read and understood the nature of this document.

I hereby authorise [Cable Company] to send a cheque for this sum direct to me at:

Address: _____

Name (in capitals): _____

Signed: _____

Witness: _____

Date: _____

Capacity: _____

Name of fishing vessel: _____

Name of owner: _____

VAT Registration number: _____

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 ASSOCIATION