

EXECUTIVE NOTE

THE PROHIBITION OF FISHING WITH MULTIPLE TRAWLS (NO. 2) (SCOTLAND) AMENDMENT ORDER 2006 (S.S.I 2006/602)

The above instrument was made in exercise of the powers conferred by section 5 of the Sea Fish (Conservation) Act 1967. The instrument is subject to negative resolution procedure.

Policy Objectives

The purpose of the instrument is to prohibit all trawls of more than two nets in Scottish waters.

The practice of multiple trawling (a single boat trawling with more than two nets), poses a potential threat to stocks, due to the sizeable increases in catch efficiency and the level of discards that can potentially result from the use of such methods, and may undermine the principles of effort management and the enforcement of quota and landing restrictions.

Current legislation (the Prohibition of Fishing with Multiple Trawls (No. 2) (Scotland) Order 2000 and the Prohibition of Fishing with Multiple Trawls Order (No. 2) (Scotland) Amendment Order 2003) allows trawling with two or more nets for:

- a) any beam trawler;

- (b) vessels fishing with a trawl having a mesh size of not less than 80 millimetres in the Fladen area;

- (c) vessels fishing with a trawl having a mesh size of not less than 80 millimetres-
 - (i) in ICES VI south of a line drawn westwards from the east coast of the Sound of Jura at 56° north latitude (West of Scotland);

 - (ii) in ICES VII (Irish Sea, West of Ireland and Porcupine Bank, South Coast of Ireland, Bristol Channel and English Channel); or

 - (iii) in ICES IV south of a line drawn eastwards from the east coast of England at 53° north latitude; and

- (d) vessels fishing with any trawl having a mesh size of 95 millimetres or more.

The purpose of this instrument is to limit the above vessels to two trawls and no more.

Consultation

The Scottish Executive consulted the fishing industry in Autumn 2004. Of the 19 responses received, 15 supported a ban on fishing with multiple trawls by Scottish vessels and in Scottish waters.

According to the provisions in the EU Technical Conservation Regulation, (Council Regulation (EC) 850/98 of 30 March 1998 for the conservation of fishery resources through technical measures for the protection of juveniles of marine organisms), Member States may take measures supplementing those laid down in Community legislation for vessels flying the flag of the Member State concerned. The Regulation requires that the Commission be informed of any planned measures. Within one month of such notification, the Commission can request that the entry into force of the measures be suspended while the Commission decides whether the measures comply with the requirements of the Regulation. The Commission was informed in writing of plans to introduce this measure on 31 October 2006.

Financial Effects

There will be no compliance costs on the large majority of fishing businesses. However, those presently operating multiple trawls will be required to adjust their gear and may lose the benefits of significant previous investment in their vessels. It is possible that these individuals may incur financial losses as a result of a reduction in levels of catch efficiency.

The proposals would not give rise to further costs to the Scottish Executive. Enforcement of the proposed measures would be achieved within the existing provision for the Scottish Fisheries Protection Agency.

See attached Regulatory Impact Assessment

Scottish Executive Environment and Rural Affairs Department
30 November 2006

REGULATORY IMPACT ASSESSMENT

PROHIBITION OF MULTIPLE TRAWLS IN SCOTTISH WATERS

Purpose and intended effect of the proposals

1. Scottish Statutory Instrument 405/2000 prohibits the use of trawls with more than one net with certain exceptions, relating to the mesh size of the nets used and the sea areas in which trawls are undertaken. The intention behind making further legislation to prohibit all use of multiple trawls (trawling with more than two nets) is to offer additional protection to stocks. Placing limits on levels of fishing power will help to support existing effort controls and can minimise the discarding of small fish or non-target species.

Risk Assessment

2. The measures will apply to all Scottish vessels, to all other UK vessels in Scottish waters and to any vessel within the Scottish 12-mile limit. In practice, only a very small number of Scottish/UK vessels are currently operating multiple trawls in Scottish waters, so the costs on the fishing industry of complying with the proposed restrictions will be minor. However, investment by individuals in the small number of active multi-rig vessels will have been significant (up to an estimated £20,000).

Options

Prohibit all multiple trawls through Scottish legislation

3. This would remove the possibility of increased use of multiple trawls by Scottish vessels and other UK vessels fishing in Scottish waters, and by any vessel within the Scottish 12-mile limit, therefore offering additional long-term protection to stocks. The measure would be easy to enforce and would avoid creating any loopholes that could be used to undermine the principles of effort control. While EU legislation would offer more comprehensive protection to stocks, it will take time to agree measures with all interested parties and the outcomes of such discussion must be considered uncertain. By comparison, and as an interim measure, Scottish legislation would be quick and easy to implement.

Prohibit all multiple trawls through Scottish legislation, except nets of more than 120mm mesh

4. This would allow vessels currently using multiple trawls to continue operating, provided they used nets of a large mesh size. This could provide some additional stock protection by guaranteeing certain levels of net selectivity. However, it would leave a loophole for anyone to fish with multiple gear if they wished and therefore might not prevent future expansion in usage and fishing power, would reduce ease of enforcement.

Prohibit multiple trawls through EU legislation only

5. The successful adoption of EU measures would require all EU Member States to address the problem and should therefore offer significant conservation benefits. It would

also not disadvantage Scottish/UK vessels in comparison to vessels in other EU fleets. However, delivering such a prohibition, or new restrictions, is not in the Executive's gift. Reaching agreement with the European Commission and other EU Member States could take some time and the outcomes are uncertain.

Do not prohibit multiple trawls

6. Not introducing Scottish measures would avoid the imposition of financial losses on the small number of fishermen currently working with multi-rig gear. However, the measures are intended to support efforts to promote the recovery of some of Scotland's key fish stocks, to the benefit of the fishing industry at large, and to act as an interim measure in advance of a potential EU prohibition or new restrictions on multiple trawls.

Benefits

7. The introduction of these measures should protect juvenile whitefish and nephrops stocks in Scottish waters and therefore should enhance catch opportunities in future years. By legislating now, when few Scottish and UK fishermen have invested in multi-rig gear, it is possible to avoid potentially more widespread financial losses in future years.

Compliance costs for business

8. There will be no compliance costs on the large majority of fishing businesses. However, those presently operating multiple trawls will be required to adjust their gear and may lose the benefits of significant previous investment in their vessels. It is possible that these individuals may incur financial losses as a result of a reduction in levels of catch efficiency.

Small Firms Impact Test

9. The size of the crews of vessels potentially affected by the measures mean that they would all be classed as small or micro businesses. These businesses were consulted via the Scottish and other UK fisheries associations whose members could potentially be affected by the measures. Views were sought on all aspects of the Executive's legislative proposals.

Other costs

10. The measures would not give rise to further costs to Government. Enforcement of the legislation would be achieved within the existing provision for the Scottish Fisheries Protection Agency.

Competition Assessment

11. There will be limited negative competitive impact arising from this regulation as few Scottish or UK vessels currently operate multiple trawls. The very small number of vessels that do would be subject to restrictions not imposed in full on those vessels from other EU Member States which fish with multi-rig gear in Scottish waters. Other EU vessels would continue to have the option of fishing in Scottish waters with multi-rig gear provided they operate outside the 12-mile limit. However, the majority of Scottish and UK vessel owners

have to date chosen not to fish with multi-rig gear, so the restrictions would not introduce a new competitive impact.

12. The proposed legislation neither restricts the ability of firms to choose the price, quality, range or location of their products, nor will it lead to a differentiation in costs between new and existing fishermen. The proposed legislation is unlikely to affect the market structure.

Results of consultation

13. The Scottish Executive issued a public consultation on its proposals in August 2004. There were 19 responses. 1 response was a nil return. 15 responders supported Option A, included the Scottish Fishermen's Federation, Scottish Natural Heritage, the Marine Conservation Society and the Sea Fish Industry Authority. A number of those that supported Option A also commented that the prohibition should continue to be pursued at an EU level.

14. 0 responders supported Option B. 1 responder – the Scottish Fishermen's Organisation Ltd expressed a preference for Option C, stating its opinion that the issue can only be dealt with at EU level. 2 responders – the Fishermen's Association Limited and one individual resident in Shetland - opposed any form of action and expressed a preference for Option D.

Summary and Recommendations

15. It is recommended that legislation prohibiting the use of multiple trawls in Scottish waters is introduced.

Enforcement, sanctions, monitoring and review

16. Enforcement would be undertaken predominantly by the Scottish Fisheries Protection Agency, operating under Scottish legislation. If the measures are found to have been contravened, a fine not exceeding £5000 may be levied. The court may also impose an additional fine not exceeding the value of the fish caught with the net or order the forfeiture of the net.

17. The Fisheries Research Service is responsible for monitoring levels of fishing activity and the effect of particular fishing methods on stocks in Scottish waters, within the framework of a strategic work programme determined by the Scottish Executive. It will be possible to review the effect of these measures by assessing landings data from before and after their introduction.

Ministerial Declaration

DECLARATION:

I have read the Regulatory Impact Assessment and I am satisfied that the balance between cost and benefit is the right one in the circumstances.

**Signed by the
Responsible Minister:** _____

Date:

Date of Regulatory Impact Assessment: