

EXECUTIVE NOTE

THE FISH LABELLING (SCOTLAND) REGULATIONS 2010

SSI 2010/90

1. The above instrument was made by the Scottish Ministers in exercise of the power conferred by sections 6(4), 16(1)(e) and (f), 17(2), 26(1) (a) and (3) and 48(1) of the Food Safety Act 1990 and all other powers enabling them to do so. This instrument is subject to negative resolution procedure.

Policy Objectives

2. This Scottish Statutory Instrument (SSI) revokes and replaces the Fish Labelling (Scotland) Regulations 2003 and the Fish Labelling (Scotland) Amendment Regulations 2006.
3. It updates the existing national list of commercial designations for fish species (i.e. the designated common names such as 'cod', 'salmon', etc.) in the Fish Labelling (Scotland) Amendment Regulations 2006. The new Schedule includes a number of new fish species to allow for newly commercialised species in the market place and makes some changes to existing designations in light of new scientific information.

Policy Background

4. The Fish Labelling (Scotland) Regulations 2010 provide for the execution and enforcement of Article 4 of Council Regulation (EC) No. 104/2000 and Commission Regulation (EC) No. 2065/2001. These European Regulations together require that certain fish and aquaculture products are labelled at retail sale with the commercial designation (i.e. an agreed common name) of the fish species, the production method (i.e. whether caught at sea or farmed, etc.) and the catch area or country of origin. The European Regulations also require that Member States establish and publish a list of commercial designations for fish species that must be used in the labelling of fish. The list of commercial designations for species of seafish, salmon and freshwater fish and shellfish is included as a Schedule to the principal Regulations.
5. Under Regulation (EC) No. 2065/2001, any newly commercialised species for which no commercial designation has been given in the Regulation may be marketed under a provisional commercial designation, agreed by the competent authority (in the UK this is the Food Standards Agency) of the Member State. Within 5 months, a definitive commercial designation should be decided and added to the established national list by the Member State.
6. This SSI is being made to update the existing Schedule of commercial designations. There have been a number of requests for commercial designations to be used for newly commercialised species. Some species for which provisional designations have been granted are added to the list and also some changes are being made to existing designations.
7. This Regulation applies to Scotland only. Separate but similar legislation is being implemented in England, Wales & Northern Ireland.

Consultation

8. The Food Standards Agency in Scotland launched a formal 12 week public consultation on the draft Regulations, including the Schedule and proposed partial Regulatory Impact Assessment, between 9 July and 1 October 2009. Fishing is recognised as a significant industry within Scotland and therefore the Agency consulted 205 interested parties, including consumer organisations, enforcement bodies and a large number of fish industry associations and businesses on the draft Regulations. Three responses were received from Scottish stakeholders, all supportive of the new Regulation and the simplified schedule. A similar consultation was also carried out in England where seven responses were received. Four were supportive, one was specifically a request for a further new designation, one was regarding the layout of the schedule and one concerned the addition of other substances to fish. All responses were fully discussed by the re-convened Fish Expert Working Group following the close of the consultation and consensus decisions were reached on the requested new additions and changes.
9. The draft Regulations were amended to take some of these requests into account with an extra two species being added and some amendments to designations being made.
10. A summary of the responses received may be found in the Scottish consultation section of the Food Standards Agency website and is attached.
11. A list of the Interested Parties consulted is attached.

Financial Implications

12. It will be necessary for food businesses in Scotland to familiarise themselves with the new Regulations and this will have financial implications. A Regulatory Impact Assessment has been prepared and this shows that the familiarisation cost is thought to be between £17,000 and £41,000 (rounded figures). In the UK as a whole this cost equates to be between £57,000 and £283,000. These figures include the cost to all general food retailers as it is not known how many of them actually sell fish. It is likely that the overall familiarisation cost will be nearer to the lower figure as many of them do not do so.

Contact

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Summary of responses to consultation on:

The Fish Labelling (Scotland) Regulations 2009

(Consultation letter issued: 09/07/2009)

(Consultation ended: 01/10/2009)

File No: LCS/1020

Response from	Comment	Initial View	Accept / Reject / No action required (NAR) / Consider
Marine Scotland /Marine Laboratory Aberdeen	Identified errors in Latin names of two fish species (1) in RIA Annex 1 black oreo should be <i>Allocyttus niger</i> and (2) in SSI Schedule Basking shark should be <i>Cetorhinus maximus</i>		Accept
East Ayrshire Council	(1) Noted that questions were specific to types of consultee (business and trade associations in particular). (2) No costs implications to East Ayrshire Council are envisaged as the proposals update and consolidate previous Regulations. (3) Wording of the draft Regulations appears satisfactory. (4) No comments on revised Schedule. (5) Listing the fish alphabetically by their first name rather than by group provides an ease of reference and is supported.		No action required
Scottish Salmon Producers' Organisation	Q1: Content with the wording of the draft Fish Labelling (Scotland) Regulations 2009 Q4: There are no other additions, amendments		No action required

	<p>or deletions to be made to the Schedule.</p> <p>Q5: Content with the new approach.</p> <p><u>Partial Regulatory Impact Assessment</u></p> <p>Q6: There will be no additional members' costs.</p> <p>Q7: There will be no on-going costs or quantifiable benefits associated with this Regulation.</p> <p>Q8: It is unlikely that there will be any other effects of the new Regulations on members.</p> <p>Q9: The transitional period will not affect members as there have been no changes to the product labelling of Atlantic Salmon.</p> <p>Q14: There will be no effect on competition in our area of production.</p> <p>Q15: Yes, it is better to simplify rather than further amend the existing document.</p>		

Fish Labelling (Scotland) Regulations 2010

Aberdeen City Council
Aberdeenshire Council
Adam Smith College
ADAS Scotland
AG BARR (Finlays NMW)
AIC Ltd
Alsop Transport Services
Angus Council
Aquascot Ltd
Argyll & Bute Council
Argyll & Clyde
Association of Scottish Shellfish Growers
Ayrshire & Arran Health Board
Berits & Brown Ltd
Biodynamic Agricultural Association
BMA Scotland
Bramik Foods Ltd
British Egg Industry Council
British Goat Society
British Hospitality Association
British Poultry Council
British Soft Drinks Association
British Trout Association
British Veterinary Association
Brooks-Carter Clinic
Brookside Products Ltd
Brown Brothers Ltd.
C J Lang & Son Ltd
Caledonian Cheese Co
Centre for Public Health Nutrition Research
Children In Scotland
City of Edinburgh Council
Clackmannanshire Council
Co-operative Group (CWS) Ltd
Coca Cola Enterprises Ltd
Comhairie Nan Eilean Siar
Comhairle Nan Eilean Siar
Consumer Focus Scotland
COSLA
Dairy UK .Scotland
Deeside Natural Mineral Water
Diageo
Direct & Care Services
Dumfries & Galloway Council
Dundee City Council
Dundonnell Smoked Salmon
East Ayrshire Council
East Dunbartonshire Council
East Lothian Council
East Renfrewshire Council
Edinburgh Smoked Salmon Company (1992) Ltd.
European Parliament

Falkirk Council
Farm lay Eggs
Federation of Small Businesses
Fife Council
Fisheries Research Services
Food Additives & Ingredients Association
Food And Drink Federation
Food Certification Scotland Ltd
Food Industry (North) Development Services
Food Innovation Institute (F2i)
Food Safety Authority of Ireland
Food Training & Consultants Company
Framgord Ltd
Glasgow Caledonian University
Glasgow City Council
Glasgow Metropolitan College
Glasgow Scientific Services
Glasgow University Veterinary School
Gordon & MacPhail
Gram pian Country Pork Halls Ltd
Grampian Oat Products
H.R. Bradford (Bakers) Ltd
Hallmark Meat Hygiene Ltd/ AA Duncan & Son
Harbro Group Ltd
Health Protection Scotland
Heriot-Watt University
Highland Council
Highland Drivers Ltd.
Highland Spring Ltd
Hilton International
Hutchison Associates Ltd
Hutchisons Flour
Institute of Aquaculture
Inverclyde Council
John Hogarth Ltd.
Jura Fine Foods Ltd
Kettle Produce Ltd.
Lossie Seafoods
Lothian Health Board
Lothian NHS
M&D Catering
Mackies Of Scotland
MacPhie of Glenbervie Ltd
MacRae Food Group
Marine Harvest (Scotland) Ltd
Mcintosh Donald
Meat and Livestock Commission
Midlothian Council
Moray Seafood Ltd
Moredun Reasearch Institue
Munlochy GM Vigil
Mylnefield Reasearch Services Ltd.
National Beef Association
National Beef Association Scotland
Neogen Europe Ltd.

Neville Craddock Association
NFU Scotland
NHS Borders
NHS Fife
NHS Fife . Nutrition & Dietetic Dept.
NHS Grampian
NHS Greater Glasgow & Clyde
NHS Health Scotland
NHS Orkney
NHS Tayside
Norscot Seafoods Ltd
North Ayrshire Council
North Lanarkshire Council
Orkney Islands Council
Pan Fish Scotland Ltd
Perth & Kinross Council
Perth College
Peterhead Port Authority
Purem alt Products Ltd.
Quality Meat Scotland
Renfrewshire Council
Royal Environmental Health Institute for Scotland
Royal Highland & Agricultural Society of Scotland
Royal Highland Agricultural Society of Scotland
Royal Highland Education Trust
Sangs (Banff) Ltd
Scallop Association
Scotch Whisky Association
Scotch Whisky Research Institute
Scottish Association of Master Bakers
Scottish Association of Meat Wholesalers
Scottish Beef Cattle Association
Scottish Beer & Pubs Association
Scottish Borders council
Scottish Chambers of Commerce
Scottish Crofting Foundation
Scottish Environmental Research Centre
Scottish Federation of Meat Traders
Scottish Fishermens Organisation
Scottish Food Enforcement Liaison Committee
Scottish Food Enforcement Officers Association
Scottish Food Quality Certification Ltd
Scottish Fresh Foods
Scottish Government
Scottish Grocers Federation
Scottish Midland Co-op Society
Scottish Newcastle UK
Scottish Organic Producers Association
Scottish Pig Producers Ltd.
Scottish Rural Property and Business Association.
Scottish Salmon Producers Organisation
Scottish Sea Farms Ltd.
Scottish Shellfish Marketing Group Ltd.
Scottish White Fish Producers Association
Sea Fish Industry Authority

Seafish Industry Authority
Seafood Scotland
Shetland Islands Council
Soil Association Certification Ltd
Soil Association Scotland
South Ayrshire Council
South Lanarkshire Council
SQA
Stirling Council
Stirling Council (Catering & Cleaning)
Strathaird Salmon Ltd
Strathlomond Mineral Water Co Ltd
SUSTAIN
Tayside Scientific Services
TESCO
TESCO Stores Ltd
The British Dietetic Association
The Dram buie Liqueur Co.Ltd
The Glenside Group
The Glenside Group Ltd.
The Halal Food Authority
The Highland Council
The Moray Council
The Royal Society of Edinburgh
The Scottish Licensed Trade Association
United Fish Industries
University of Aberdeen
University of Dundee
University of Glasgow
University Of Paisley
University of Strathclyde
Verner Wheelock Associates
Voluntary Health Scotland
Walkers Shortbread Ltd
West Dunbartonshire Council
West Lothian Council
West Minch Salmon
West of Scotland Fish Producers Organisation Ltd
Which?
William Forrest & Son (Paisley) Ltd
Wine Standards Branch of FSA
Womens Food & Farming Union
Woodrows Of Dunfermline Ltd.

FINAL REGULATORY IMPACT ASSESSMENT

1. TITLE OF THE PROPOSAL

The Fish Labelling (Scotland) Regulations 2010

2. PURPOSE AND INTENDED EFFECTS OF THE MEASURE

i. Objective

The purpose of this proposed Regulation is to ensure that all retailers of fish can readily comply with their statutory duties to label fish correctly. In order to assist them in doing this, some new Commercial Designations have been added & extra labelling options for other species which already appear on the list have been identified and are now provided. These changes are expected to help consumers by ensuring that fish are labelled in a way that is informative, consistent and not misleading.

ii. Background

The Fish Labelling (Scotland) Regulations 2003, as amended, provide for the enforcement of Article 4 of Council Regulation 104/2000 and Commission Regulation 2065/2001 in Scotland. The list of agreed commercial designations for fish species for the UK was included as a schedule to these Regulations. The UK list of commercial designations was also included as a schedule to equivalent Fish Labelling Regulations in England, Wales and Northern Ireland.

The Fish Labelling (Scotland) Amendment Regulations 2006 were adopted to allow for the updating of the Schedule of Commercial Designations. Equivalent amendment Regulations were made in England, Wales and Northern Ireland.

Regulation (EC) No. 2065/2001 states that newly commercialised species, for which no commercial designation currently exists, may be marketed under a provisional commercial designation, agreed by the competent authority of the Member State (in the UK this is the Food Standards Agency). However, within the subsequent five months, a definitive commercial designation must be decided and added to the established national lists.

The Fish Expert Working Group, membership of which includes representatives from the Food Standards Agency, Seafish, fish and food industry representative organisations and the Natural History Museum, gives specialist advice to the Food Standards Agency in this area. The working group has become aware of a number of new fish which have come onto the market and the Agency has also received a number of requests from the fish industry for additions to the Schedules of each of the UK's four countries' Regulations. The working group has noted that most of the new fish are imported and are being sold primarily at Billingsgate Fish Market by minority ethnic fish wholesalers, and it is likely that they will be sold mostly by minority ethnic retailers also. These requests have been considered and an amended Schedule of Commercial Designations drawn up, taking into account

reference sources such as the Fishbase website and the OECD Multilingual Dictionary of Fish and Fish Products.

The revisions (see Annex 1) include:

- the addition of 26 new fish species / families;
- 16 additions to existing commercial designations for fish species;
- the deletion of 5 designations for particular Latin names

(iii) Rationale for Government Intervention

It is important that fish are labelled correctly and consistently at the point of sale so that purchasers know exactly what they are buying. The proposed Fish Labelling (Scotland) Regulations 2010 add new commercial designations and give extra options for others already within the Schedule. If the commercial designations contained within the Schedule to these Regulations are not updated to reflect newly commercialised fish species, there may be inaccurate, inconsistent and illegal labelling of these species by businesses and misinformation for consumers. Similar Regulations will be made in England, Wales & Northern Ireland.

Regulations (EC) No. 104/2000 and 2065/2001 require that certain fish and fish products are labelled at retail sale with an accepted name of the species and that Member States establish commercial designations for fish species that must then be used in the labelling of fish. Failure to update and publish a list amended in respect of newly commercialised species may leave the UK open to infraction proceedings from the European Commission.

3. DEVOLUTION

The proposed regulations will apply in Scotland only. Similar regulations will be made in England, Wales & Northern Ireland.

4. CONSULTATION

(i) Within Government

In Scotland, the Scottish Government Rural Directorate, Marine Scotland and the Better Regulation & Industry Engagement Unit have been kept informed of the proposed Regulations and new developments as they have arisen. They have also had the opportunity to comment on the public consultation papers and the requested designations for new fish species.

(ii) Public Consultation

The Food Standards Agency in Scotland sent out a formal 12 week public consultation on the draft Regulations, including the Schedule and proposed partial Regulatory Impact Assessment, between 9 July and 1 October 2009. Fishing is recognised as a significant industry within Scotland and therefore the Agency consulted 205 interested parties, including consumer organisations, enforcement bodies and a large number of fish industry associations and businesses on the draft

Regulations. Three responses were received from Scottish stakeholders, all supportive of the new Regulation and the simplified schedule. A similar consultation was also carried out in England where seven responses were received. Four were supportive, one was specifically a request for a further new designation, one was regarding the layout of the schedule and one concerned the addition of other substances to fish. All responses were fully discussed by the re-convened Fish Expert Working Group following the close of the consultation and consensus decisions were reached on the requested new additions and changes.

The draft Regulations were amended to take some of these requests into account with an extra two species being added and some amendments to designations being made.

5. OPTIONS

The options are:

- **Option 1** - Do nothing – no change to legislation
- **Option 2** - Update the Schedule of Commercial Designations through legislation by adopting the draft Fish Labelling (Scotland) Regulations 2010.

Option 1

Failure to update the national list of commercial designations contained within the Schedule in respect of certain fish species may leave the UK open to infraction procedures from the Commission.

Option 2

The Fish Labelling (Scotland) Regulations 2010 would contain an updated list of commercial designations as a schedule to the Regulations. This will achieve the intended objective of establishing appropriate commercial designations for newly commercialised fish species and amending existing commercial designations, where appropriate.

6. COSTS AND BENEFITS

Sectors and Groups Affected

Market size

The analysis of costs and benefits covers all devolved administrations and is done on a UK-wide basis. The UK fish retail market (excluding shellfish) was valued at approximately £1.8 billion by Mintel in 2007.¹ The majority of fish and seafood sales (85%) were through supermarkets (multiples and discounters) and 11% were through fishmongers or specialists.

Fish retail, wholesalers and manufacturing

¹ Mintel: Fish and seafood, September 2008

Number of businesses by activity, split by country

	Scotland	England	Wales	Northern Ireland	TOTAL UK
Retail – fish, crustaceans & molluscs	270	1050	50	20	1390
Wholesale of other food including fish, crustaceans & molluscs	285	1610	70	90	2055
Processing and preserving of fish and fish products	185	200	5	25	415
General retail	4610	35370	2305	1545	43830

The business sectors potentially affected by this proposal would be a proportion of retail fishmongers (of which there are approximately 270 in Scotland, 1,390 UK-wide), fish product manufacturers (of which there are approximately 185 in Scotland, 415 UK-wide) and wholesale fish suppliers (of which there are approximately 285 in Scotland, 2,055 UK-wide).² General retailers with wet fish counters may also be affected and this would represent a fraction of the general retail figure in the table above.

These businesses must already provide the labelling information (including the commercial designation) required by the Fish Labelling (Amendment)(Scotland) Regulations 2006 on all products at retail sale to the final consumer. In most cases this will be on pre-packed products, where new labels will have to be designed and printed for the newly commercialised species. It is assumed that only a very small number of labels will need to be re-designed and re-printed where the commercial designations of existing species have been changed. For products sold loose, i.e. at wet fish counters, the labelling information required is often provided by point of sale displays which will be cheaper and easier to amend.

Fishing vessels

Registered fishing vessels by nationality

	Scotland	England	Wales	Northern Ireland	Total
Vessels	2149	3015	544	228	5936
Auctions	3	25	3	1	32

Vessels Source: Marine and Fisheries Agency³

Auctions Source: Marine and Fisheries Agency⁴

² IBDR ONS: VAT/PAYE registered local units 2008

³ Marines and Fisheries Agency 2008, <http://www.mfa.gov.uk/statistics/vessellists.htm>

⁴ www.fishregister.co.uk

Fish auctions (of which there are 13 in Scotland, 28 UK-wide)⁵, fishing vessels (of which there are 2150 registered in Scotland, 5,936 UK-wide)⁶ and other businesses at the first stage of the supply chain (of which there are about 20 UK-wide) would also be affected by this proposal. The commercial designation for each species is needed under the traceability requirements of the Regulations at each stage of marketing prior to final retail sale. This information may be given by labelling, packaging or on commercial documents accompanying the fish which will need to reflect the new or amended commercial designations added to the Schedule.

Consumers

Consumers will benefit from clear and informative provisions in which there are specified designations for new fish which have come onto the market and some amendments to existing designations which describe certain fish more accurately. The purpose of these is more consistent labelling. Consumers from minority ethnic groups in particular are likely to benefit from this, as many of the new species of fish are likely to be marketed mostly to them.

Enforcers

Enforcement bodies will benefit from having clearer, up-to-date information located in one place, i.e. in the amended Schedule.

Exceptions

Catering establishments and processed fish products sold at retail will not be affected by these proposals because s.3(1) of the Fish Labelling (Scotland) Regulations 2003 (as amended) applies to retail sales only, and processed fish products are not subject to the labelling requirements of Article 4 of Regulation (EC) 104/2000.

Option 1 – Do Nothing

Benefits

There are no additional benefits to continuing with the current list as it is now outdated.

Costs

There are potential costs in terms of consumer choice in that fish businesses may be reluctant to sell fish which have come onto the market which are not listed in the Schedule and to enforcement bodies from not having clear, consolidated enforcement information.

⁵ www.fishregister.co.uk

⁶Marines and Fisheries Agency 2008, <http://www.mfa.gov.uk/statistics/vessellists.htm>

Option 2 – Legislative change

Benefits

The new fish species added to the list will ensure accurate and consistent commercial designations in Scotland, in the other countries within the United Kingdom and in other Member States where the common commercial name for the same species is in English. This may expand the range of fish and fish products available at all stages of marketing.

Consistent labelling of fish products in accordance with the 2010 Regulations will benefit the consumer via clarity and help prevent potential mis-description of the wider choice of fish and fish products available to the consumer. In addition, it may also help deter mislabelling that passes off inferior fish as different “premium” species.

There are no significant environmental benefits associated with this option.

There may be some advantages to UK businesses in terms of facilitating trade and the ability to place a wider range of fish on the market.

Costs

1. Familiarisation costs

There will be a one-off familiarisation cost to industry and the enforcement authorities in terms of reading and familiarising themselves with the new Regulations and the new Schedule of Commercial Designations.

Local Authorities

Area	Number of LAs	Familiarisation costs (£'00s)
Scotland	32	£221
England	389	£2,684
Wales	22	£152
Northern Ireland	26	£179
UK total	469	£3,236
<i>UK rounded to nearest £1000</i>	469	<i>£3,000</i>

Note: All figures rounded

It is estimated by the Agency that it would take one local authority officer, in each of the 32 local authorities in Scotland, 20 minutes to read the Schedule of Commercial Designations. With an average hourly pay rate for environmental health

practitioners⁷ of approximately £15.92⁸ which, in line with the standard cost model, is then up-rated by 30% to account for overheads, this provides an hourly cost of £20.70, which equates to £6.90 per 20 minutes. This would be equivalent to a one-off familiarisation cost of around £220 for Scotland (rounded) assuming that one officer can then disseminate this information to colleagues⁹.

Businesses

The table on the next page outlines the estimated costs for businesses throughout the UK.

No of Businesses / Costs	Scotland	England	Wales	Northern Ireland	UK
Retail – fish, crustaceans & molluscs	270	1050	50	20	1390
Wholesale of other food including fish, crustaceans & molluscs	285	1610	70	90	2055
Processing and preserving of fish and fish products	185	200	5	25	415
Fishing Vessels	2152	3040	547	229	5968
Total Specialist	2892	5900	672	364	9828
Cost Specialist (£5.77)	£16,687	£34,043	£3,877	£2,100	£56,708
<i>Rounded</i>					<i>£57,000</i>
Retail	4,610	35,370	2,305	1,545	43,830
Cost Retail (£5.16)	£23,788	£182,509	£11,894	£7,972	£226,163
Total Cost	£40,475	£216,552	£15,771	£10,072	£282,870
<i>Rounded</i>					<i>£283,000</i>

It is estimated that again it will take each business 20 minutes to read the Schedule. Assuming an average hourly wage of £13.31 in 2009 for managers in fishing, this was taken and up-rated by 30% to £17.30 or £5.77 per 20 minutes, in-line with the standard cost model.¹⁰ Using the above IBDR data, it is estimated there are approximately 2892 specialist businesses in Scotland (vessels, auctions and specific fish-related businesses) in the fish sector that would be affected by the 2010 Regulations¹¹. This equates to a one-off familiarisation cost of approximately £17,000 for Scotland.

⁷ The wage rate of Inspectors of factories, utilities and trading standards was found to be £15.58 according to the ASHE 2009 table and so the higher wage for enforcement officers was used to be cautious.

⁸ ONS – Annual Survey of Hours and Earnings 2009
<http://www.statistics.gov.uk/statBase/product.asp?vlnk=13101>

⁹ Standard practice to ensure consistency across regulation familiarization costs.

¹⁰ Ibid.

¹¹ Obtained from DEFRA and Seafish statistics in the Fish Labelling (Amendment) (England) Regulations 2006 IA: <http://www.food.gov.uk/multimedia/pdfs/fishlabellingria2006.pdf>

This figure does not include general food retailers, some of which may be affected by the 2010 Regulations. As there are no data on the proportion of general food retailers in Scotland who will be affected, all are included to produce an upper bound estimate, which will equate to 4610 local business units. Assuming an average hourly wage for managers in distribution, storage and retailing of £11.90, up-rated to £15.47 in line with the standard cost model and a 20 minutes familiarisation cost of £5.16, this equates to an upper estimate familiarisation cost of approximately £23,788. As the general food retail category includes many businesses which will not be affected by the legislation, the familiarisation cost is expected to be considerably less than this.

2. Ongoing costs

Businesses

As under the requirements of the Food Labelling Regulations 1996 (as amended), businesses are still required to label a fish even in the absence of a current commercial designation, i.e. prior to it being listed in the Commercial Designations Schedule, it is assumed that the classification of new species will not add any ongoing costs to businesses.

3. Other costs

Sustainability

Whilst we recognise that there may be some environmental impacts associated with the amendments, in that they allow a wider range of fish to be legitimately placed on the market in the UK, there is other legislation and agreements in place to control the sustainability of fish stocks. The Fish Labelling (Scotland) Regulations 2010 would not override any other restrictions that may exist, for instance, on the fishing of endangered species. Therefore, we do not consider there to be any significant environmental costs associated with this option.

There are no significant social costs associated with this option.

Labelling

Almost all currently permitted commercial designations will still be allowed under the new Regulations, as all except two of the changes made to the existing Schedule add alternative names or new species. Therefore, there will be minimal administrative cost for industry for re-printing labels/documentation (including promotional material) unless it wishes to take advantage of an alternative commercial designation or to market new species under an existing commercial designation.

For the new fish species added to the list there are unlikely to be any significant administrative costs to industry as these products are mostly newly commercialised species which are not currently being sold. The only re-labelling costs will be in respect of new species which have come onto the market which have up to now been labelled differently or inconsistently prior to their listing within the Schedule.

7. SMALL FIRMS IMPACT TEST

The new Regulations would be likely to impact in a positive way on small firms, since we believe that the new fish being marketed are most likely to be sold in small, minority ethnic fishmongers who will obtain maximum benefit from the economic gain realised from being able to sell these. Small businesses may have some initial extra labelling costs from having to change labels on fish which had yet to obtain a commercial designation and which were previously being marketed under a different name. There were no comments in the responses to the consultation on the financial effect of the Regulations on small businesses.

8. LEGAL AID

This Regulation does not introduce new criminal sanctions or civil penalties: therefore there are no implications for legal aid.

9. TEST RUN OF BUSINESS FORMS

There are no new forms associated with this Regulation.

10. COMPETITION ASSESSMENT

Since there are only two fish (*Aphanopus Carbo* and *Lepidopus Caudatus*) for which existing names are being disallowed under the new Regulations, and these have alternative designations which can be used, there should be no significant impact on competition in the industry.

11. SUSTAINABLE DEVELOPMENT & ENVIRONMENTAL IMPACT

The economic, social and environmental impacts of both options have been considered in the preparation of this Regulatory Impact Assessment and are detailed in the Costs and Benefits section. Option 2 is considered to be relatively more sustainable as the limited financial costs to business and enforcement bodies are fully justified by the benefits to consumers in terms of improved information and choice.

None of the new species included in the Schedule is on the CITES list of endangered species, which should minimise any possible adverse impacts on the environment.

12. RACIAL & GENDER EQUALITY

The FSA in Scotland does not consider that the new Regulations will have any impact on race or gender equality, although there may be some benefit to minority ethnic businesses.

13. ENFORCEMENT

The provisions regarding enforcement and sanctions in the existing Fish Labelling (Scotland) Regulations 2003 will remain untouched. Enforcement of the

Regulations will continue to be the responsibility of Local Authority Environmental Health Departments.

14. IMPLEMENTATION & DELIVERY PLAN

It is anticipated that the new Regulations will come into force on 6 April 2010. The publication of the new Regulations will be communicated to stakeholders through the Agency's website and by means of an Interested Parties letter. The revised schedule will also be posted on the Agency's website. It will be made available to the 32 Local Authorities in Scotland via the Agency's enforcement portal.

15. MONITORING & REVIEW

The Agency will review the 2010 Regulations two years after their implementation, with the assistance of the Fish Expert Working Group, unless the Agency becomes aware that any amendment to them is needed earlier than this.

16. SUMMARY & RECOMMENDATION

The proposed new Regulations update labelling legislation in respect of newly commercialised fish species and clarify names for some previously commercialised species. This will enable fish businesses to market a wider variety of fish whilst providing accurate and consistent labelling which will in turn improve consumer choice.

	Costs	Benefits
Option 1	No direct costs involved. However, if the commercial designations contained within the Schedule in respect of fish species is not updated to reflect newly commercialised fish species, this could lead to inaccurate, inconsistent and illegal labelling of these species by businesses and misinformation for consumers. It may also leave the UK open to infraction proceedings from the European Commission.	There are no additional benefits to continuing with the current list as it is now outdated. Failure to update the lists could potentially lead to lost business for Scottish businesses.
Option 2	There will be a one off familiarisation cost to enforcement authorities in terms of reading and familiarising themselves with the new Regulations and the new Schedule of Commercial	By updating the list of commercial designations, businesses will benefit in terms of facilitating trade and by having the ability to place a wider range of fish on the market. Consistent labelling of fish products in accordance with the

	<p>Designations. It is estimated that this will be approximately £220 in Scotland (rounded) assuming that one officer can then disseminate this information to colleagues.</p> <p>Business in Scotland will also incur a one-off familiarisation cost and this is anticipated to be approximately £17,000 (rounded) in total for Scotland.</p> <p>Additionally, some general food retailers may also be affected by the 2010 Regulations although there is no specific data available on the proportion of these who could be affected. Therefore all 4610 local business units have been included in the calculations leading to an upper estimate familiarisation cost of approximately £23,788. However many businesses within the general food retail category will not be affected and so this figure is expected to be considerably less than this.</p>	<p>new Regulations will benefit consumers via clarity and help prevent potential misdescriptions of the wider choice of fish and fish products available to them. In addition, it may also help deter mislabelling that passes off inferior fish as different “premium” species.</p>
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Option 2 is recommended. It will provide maximum benefit not only to businesses but also to the consumer.

17. DECLARATION AND PUBLICATION

I have read the regulatory impact assessment and I am satisfied that the benefits justify the costs.

Signed:.....

Date:.....

Minister’s Name, and Title:

Shona Robison, Minister for Public Health & Sport, Scottish Government

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Annex 1

Fish Labelling Regulations 2010 – Additional Species and Amendments to Species

New species

i) Sea Fish

African sole	<i>Solea senegalensis</i>
Alaska plaice	<i>Pleuronectes quadrituberculatus</i>
Black bream or Black seabream	<i>Spondyliosoma cantharus</i>
Black oreo or Oreo	<i>Allocyttus niger</i>
Bombay duck	<i>Harpadon nehereus</i>
Doctor fish, Surgeon fish or Tang	All species of the family <i>Acanthuridae</i>
Flathead	All species of the family <i>Platycephalidae</i>
Flathead sole	<i>Hippoglossoides elassodon</i>
Halfbeak	All species of the family <i>Hemiramphidae</i>
Indian halibut	<i>Psettodes erumei</i>
Leatherjacket or Unicorn fish	<i>Aluterus monoceros</i>
Longfin codling	<i>Laemonema longipes</i>
Northern rock sole	<i>Lepidopsetta polyxystra</i>
Patagonian icefish	<i>Patagonotothen ramsayi</i>
Ponyfish or Thirali	All species of the family <i>Leiognathidae</i>
Rabbitfish	All species of the family <i>Siganidae</i>
Sillago	All species of the family <i>Sillaginidae</i>
Smooth oreo or Oreo	<i>Pseudocyttus maculatus</i>
Soldier fish or Squirrel fish	All species of the family <i>Holocentridae</i>
Spadefish	All species of the family <i>Ephippidae</i>
Spottail spiny turbot or Spottail turbot	<i>Psettodes belcheri</i>
Striped bass	<i>Morone saxatilis</i>
Threadfin	<i>Polynemus tetradactylum</i>

Wolf herring

Chirocentrus dorab

Yellowstripe scad

Sellaroides leptolepis

ii) Freshwater Fish

Snakehead

All species of the family *Channidae*

Additional designations

i) Sea Fish

Bonito

All species of *Auxis*

All species of *Euthynnus*, with the exception of *Euthynnus (Katsuwonus) pelamis*

All species of *Sarda*

The following commercial designations may also be used in relation to fish of the species listed against them in Column 2:

Bullet tuna or Melva

Auxis rochei

(Bullet tuna or Melva is a new alternative)

Cutlassfish or Ribbonfish or Scabbard fish

All species of the family *Trichiuridae*

The following commercial designations may also be used in relation to fish of the species listed against them in Column 2:

Black sabre or Black scabbard fish

Aphanopus carbo

Sabre or Sabre fish

Lepidopus caudatus

or Silver sabre

(Cutlassfish and Ribbonfish are new designations, Scabbard fish was previously *Lepidopus caudatus* or *Aphanopus carbo* only; Black sabre was previously allowed for *Lepidopus caudatus*.)

Garfish or Needlefish All seafish species of the family *Belonidae*
(Needlefish is new designation; Garfish was previously *Belone belone* only)

Kingfish or Spanish mackerel All species of the family *Scomberomorus*

Alternatively:

King mackerel *Scomberomorus cavalla*

Pacific sierra or Sierra mackerel *Scomberomorus sierra*

(Kingfish was previously *Scomberomorus cavalla* only, Spanish mackerel is a new designation)

ii) Salmon and Freshwater Fish

Basa, or Panga(s) or Pangasius All species in the family *Pangasiidae*

or River cobbler or any of these

together with the additional
word 'catfish'

The following commercial
designation may also be used
in relation to fish of the species
listed against it in Column 2:

Royal basa *Pangasianodon Bocourti*

(Previously Basa etc. could be applied to all species of *Pangasius* rather than *Pangasiidae*;

Royal Basa is a new designation)

Carp All species of the family *Cyprinidae*

Alternatively, the following may be used

Banspata	<i>Danio devario</i>
Barbel	<i>Barbus barbus</i>
Bata	<i>Labeo bata</i>
Chelapata	<i>Salmostoma bacaila</i>
Freshwater bream	<i>Abramis brama</i>
Ghania	<i>Labeo gonius</i>
Kalibous	<i>Labeo calbasu</i>
Mowrala	<i>Amblypharyngodon mola</i>
Punti	<i>Puntius sarana</i>
Roach	<i>Rutilus rutilus</i>
Rohu or Ruhi	<i>Labeo rohita</i>
Tench	<i>Tinca tinca</i>

(Rohu is a new alternative designation for *Labeo rohita*).

Dry star baim or Largebaim All species in the family *Mastacembelidae*
or Patabaim

(Previously Largebaim was allowed as a designation for *Mastacembelus armatus* and Patabaim for *Macrogathus aculeatus*)

Pacific salmon	<i>Oncorhynchus gorbuscha</i>
	<i>Oncorhynchus keta</i>
	<i>Oncorhynchus kisutch</i>
	<i>Oncorhynchus masou masou</i>
	<i>Oncorhynchus nerka</i>
	<i>Oncorhynchus tshawytscha</i>

The following commercial designations may also be used in relation to fish of the species listed against them in Column 2:

Cherry salmon	<i>Oncorhynchus masou masou</i>
Chinook salmon or King salmon or Spring salmon	<i>Oncorhynchus tshawytscha</i>
Chum salmon or Keta salmon	<i>Oncorhynchus keta</i>
Coho salmon or Medium red	<i>Oncorhynchus kisutch</i>

salmon or Silver salmon

Pink salmon

Oncorhynchus gorbuscha

Red salmon or Sockeye salmon

Oncorhynchus nerka

(Pacific salmon is a new designation for *Oncorhynchus gorbuscha*, *Oncorhynchus keta*, *Oncorhynchus kisutch* and *Oncorhynchus nerka*).

Deletions

Sea Fish

Scabbard fish, Sabre, Sabre fish or Silver sabre are no longer permitted designations for *Aphanopus carbo*.

Black sabre is no longer a permitted designation for *Lepidopus caudatus*.

