

**EXPLANATORY MEMORANDUM TO
THE SEA FISHING (ENFORCEMENT OF COMMUNITY CONTROL
MEASURES)(AMENDMENT) ORDER 2005**

2005 No. 2624

1. This explanatory memorandum has been prepared by the Department for Environment, Food and Rural Affairs and is laid before Parliament by Command of Her Majesty.

This memorandum contains information for the Joint Committee on Statutory Instruments.

2. **Description**

2.1 This Order provides for the amendment of the Sea Fishing (Enforcement of Community Control Measures) Order 2000 (SI 2000 No. 51) (“the 2000 Order”) to reflect changes made to the restrictions and obligations on Masters fishing in waters to the west of the UK, usually referred to as ‘Western Waters’, following the introduction of Council Regulations 1954/2003 and 1415/2004.

3. **Matters of special interest to the Joint Committee on Statutory Instruments**

3.1 This Order makes amendments to the 2000 Order in relation to England and Northern Ireland. Equivalent amendments to the 2000 Order for the other parts of the UK will be made in separate Orders.

4. **Legislative Background**

4.1 The Schedule to the 2000 Order established offences for the “old” Western Waters regime under Council Regulations 685/95 and 2027/95 which set down the management rules and the maximum annual fishing effort in Western Waters respectively. These regulations were repealed by the “new” Western Waters regulations, Council Regulations (EC) No. 1954/2003 and 1415/2004 which came into effect on 1 August 2004.

4.2 Consultation with the fishing industry and other interested parties took place when the Council Regulation was being negotiated in 2002/2003.

5. **Extent**

5.1 The amendments made by this Order relate to England and Northern Ireland.

6. **European Convention on Human Rights**

As the instrument is subject to negative resolution procedure and does not amend primary legislation, no statement is required.

7. Policy background

7.1 The old Western Waters regime contained special arrangements restricting access by Spanish and Portuguese vessels to an area known as the Irish Box, in accordance with transitional arrangements set out in the Spanish and Portuguese Acts of Accession. These arrangements expired on 31 December 2002, necessitating the review of the regime. In place of the Irish Box, an area to the south west coast of Ireland has been designated as a biologically sensitive area (BSA), with special arrangements applying to protect the juvenile hake stocks found there. The opportunity has also been taken to extend the scope of the regime to smaller vessels but to simplify some of the practical management arrangements. The main differences between the old and new regimes are set out in the following table.

	Old	New
Vessels affected	All over 18m	All over 10m
Fisheries affected	6, defined by species and gear type	3, defined by species only
Effort zones	12	8 plus BSA
Hailing in required	Yes	No, except upon entry to and exit from BSA

7.2 The new simplified arrangements will ensure that fishing effort does not increase in Western Waters and that vulnerable stocks there will not be over exploited.

8. Impact

8.1 A Regulatory Impact Assessment has been carried out and is attached.

8.2 The introduction of these measures will have little financial impact on the public sector. In 2004 only 104 UK vessels undertook a total of 574 fishing trips in the BSA. These vessels would be required to send a report detailing the catch onboard when entering or existing the area. The estimated cost would be between £5 and £10 depending on the method used.

9. Contact

Keith Porter at the Department for Environment, Food and Rural Affairs Tel: 020 7 270 8134 or e-mail: keith.porter@defra.gsi.gov.uk can answer any queries regarding the instrument.

REGULATORY IMPACT ASSESSMENT : WESTERN WATERS

1. Title of Proposal

A Council Regulation on the management of the fishing effort relating to certain Community fishing areas and resources and modifying Regulation (EEC) 2847/93 and repealing Regulations (EC) No 685/95 and (EC) No. 2027/95.

2. Purpose and intended effect of the measure

(i) Objective

The Regulation puts in place a new regime for fishing effort in Atlantic waters (usually referred to as “Western Waters”). It replaces the previous system, which was set out under Council Regulation (EC) 685/95 on the management of the fishing effort relating to certain Community fishing areas and resources and Regulation (EC) No 2027/95, implementing a system of fishing effort management concerning certain fishing areas and resources.

The objective of the regime is to ensure sustainability of fishing patterns.

(ii) Background

The access regime for certain areas and resources set out in the Act of Accession for Spain and Portugal expired on 31 December 2002. From that date Spain and Portugal became fully integrated into the Common Fisheries Policy. Consequently, certain provisions in Council Regulation (EC) 685/95, such as the limitation in the number of Spanish vessels allowed to fish in the Irish Box and the access limitations to the continental waters of Portugal had to be revised to take account of the new legal situation. The Regulation repeals the previous legislation and seeks to amend certain provisions in Title II of Regulation (EC) 2847/93 (the control regulation). The main elements of the Commission’s Regulation are:

- the establishment of revised effort zones based on International Council for the Exploration of the Seas (ICES) areas;
- the establishment of lists of vessels over 10 metres authorised to exercise fishing activity in the Western Waters but with provision for vessel replacement. Such lists will be limited to vessels which fished during the period 1998 to 2002;
- the evaluation and setting of maximum fishing effort ceilings for demersal and pelagic fisheries based on information to be provided by Member States concerning the levels of fishing effort exerted by their vessels during the 1998 to 2002 reference period;
- introduction of a new specific effort regime for a designated area off the coast of the Republic of Ireland (the ‘Biologically Sensitive Area’).

- modification of the existing effort monitoring and control regime (including changes in advance notification of entry and exit and in catch reporting for vessels entering or exiting from the BSA) .

(iii) Risk assessment

Scientific evidence is that many of the main fish stocks found in the waters of the European Community are at or near historically low levels caused mainly by overfishing. The Regulation is aimed at maintaining stability in fishing effort in Western Waters and to assist in the future conservation of fish stocks.

(iv) Business sectors affected

The Regulation affects:-

- The owners and masters of fishing vessels over 10 metres in overall length operating in or transiting through, the fishing areas comprising Western Waters, to whom previous requirement did not apply.
- Owners and masters of fishing vessels over 18 metres to whom the previous Regulation applied and for whom the revised requirement represents a small degree of deregulation.

Vessels fishing for profit are already licensed by the Fisheries Departments in the UK in conformity with separate EU legislation (Council Regulation (EC) 3690/93). There are some 1,500 licensed vessels in the UK fleet over 10 metres of which some 1,100 have a track record of fishing activity in Western Waters. However, over the last two years, in the region of just 100 of those vessels operated in the BSA and would therefore be subject to new hailing in and out requirements.

3. Options

Two options have been identified:

Option 1	-	no effort management and control regime;
Option 2	-	adoption of the proposed Commission measures in full

4. Benefits

Option 1

This is the base option: it could lead to an increase in fishing effort and possible over exploitation of many stocks which are already at risk and would run a high risk of infraction procedures by the Commission, with possibly very substantial fines.

Option 2

This would provide for an effort management and control regime broadly on the basis of the previous arrangements but adapted to take account of developments, including the full integration of Spain and Portugal into the Common Fisheries Policy. However, the previous requirements for hailing in and out and catch reporting in the BSA would continue with only a small degree of deregulation without taking

advantage of developments in new technology, including satellite monitoring that would provide only position reports and not catch information.

The new regime does to a small extent provide additional benefits to those vessels operating in Western Waters but exclusively outside the BSA in that those vessels without satellite monitoring equipment would previously had to provide entry and exit reports for each of the 12 zones.

5. Costs for business

The additional compliance costs for the fishing industry arise from the requirement for masters of fishing vessels between 10m and 18m or their representatives to notify flag and coastal state of their catch on board and entry to and exit from fishing areas within the BSA by email, fax, telephone or radio.

For vessels operating exclusively outside of the BSA, the Regulation would not incur any additional operating costs, as only logbook recording of entry and exit from each of the western water zone is required. However, for those vessels operating in the BSA, new costs would be incurred in relation to hailing in and out of the BSA and catch reporting. These costs are estimated to be between a minimum of £5 and a maximum of £10 per message (dependant on the means of reporting used). The table below sets out the costs per annum to the bands of vessels now subject to the regime based on the number of vessels and number of trips recorded in the BSA in 2004. These calculations assume that each vessel sends two messages per trip through the BSA.

	Maximum total cost (£)	Minimum total costs (£)	Maximum cost per annum to each vessel (£)	Minimum cost per annum to each vessel (£)
>10m – 14.99m	440	220	88	44
>15 – 17.99m	1,720	860	215	108
>18m	9,320	4,660	102	51
For all vessels	11,480	5,740		

6 Equity and fairness

The measure would apply to all Community fishing vessels over 10 metres operating in Western Waters and prosecuting the fisheries set out in Article 1 of the Legislation. As such it should not impact on intra-Community trade.

7. Consultation with small business; the small Firm’s Impact Test

Virtually all businesses in the fish catching industry are small businesses. In view of the limited impact of these Regulations (less than £11,500 in additional new costs) it has been unnecessary to undertake a small firms impact test.

8. Competition assessment

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