

**EXPLANATORY MEMORANDUM TO**  
**THE SEA FISHING (PROHIBITION ON THE REMOVAL OF SHARK FINS) ORDER**  
**2007**

**2007 No. 2554**

1. This explanatory memorandum has been prepared by Defra and is laid before the House of Commons by Command of Her Majesty.

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

2. **Description**

- 2.1 This SI will provide the Marine Fisheries Agency and British Sea-Fishery Officers with the necessary powers to enforce Council Regulation (EC) 1185/2003, which lays down detailed rules on the removal of fins of sharks on board vessels, in relation to English and Welsh vessels fishing outside British Fishery Limits and all vessels fishing in the English zone and within British Fishery Limits (excluding the Scottish and Northern Ireland zones, and the territorial seas adjacent to Wales, Isle of Man, Jersey and Guernsey). The SI will also set out the level of fines for an offence under the Council Regulation.

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

- 3.1 None.

4. **Legislative Background**

- 4.1 Council Regulation (EC) No 1185/2003 laying down rules on the removal of fins of sharks on board vessels came into force in September 2003. The Regulation is designed to prevent the discarding of relatively low value shark carcasses overboard, after the removal of high value shark fins for which there is a strong international market.

- 4.2 Regulation 1185/2003 prohibits the removal of shark fins on board vessels and also prohibits the keeping on board, transshipping or landing of shark fins which have been removed from the body. The Regulation does, however, recognize there may be practical reasons why shark fins need to be removed on board vessels and a need for separate on-board processing of fins and bodies, even when the carcass is retained (e.g. for freezer vessels that stay for a long period at sea). In those circumstances, the Regulation allows Member States to derogate from the general prohibitions of shark finning above by issuing a special permit which allows the on-board removal of fins, subject to the conditions that such processing is duly justified and that all parts of the sharks are used. The weight of the fins must not exceed 5% of the live weight of the shark catch.

4.3 The Council Regulation is directly applicable in Member States. However, the Regulation extends to waters outside EC waters and we do not currently have the legislative provisions in place to fully enforce the provisions of the Regulation in respect of areas outside British Fishery Limits, including both EC, international and third country waters. The Order aims to redress these deficiencies. It is also necessary to set out the level of fines for infringements against the Regulation.

## **5. Territorial Extent and Application**

5.1 This instrument applies to English and Welsh vessels fishing outside British Fishery Limits (BFL) and all vessels fishing in the English zone and within British Fishery Limits (excluding the Scottish and Northern Ireland zones, and the territorial seas adjacent to Wales, Isle of Man, Jersey and Guernsey)

## **6. European Convention on Human Rights**

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

## **7. Policy background**

7.1 Defra issued Special Permits permitting shark finning on board a vessel to only 10 English-registered vessels in 2006. The Scottish Fisheries Protection Agency is responsible for issuing the special permits to Scottish vessels and for enforcement in Scottish waters.

7.2 As the Council Regulation is directly applicable and this Order only seeks to provide adequate implementation by way of enforcement powers for the Marine Fisheries Agency (MFA) and British Sea Fisheries Officers it is not considered that a formal consultation is necessary as it will not result in any change to the current practices of businesses.

7.3 However, we have informally consulted the National Federation of Fishermen's Organisations (NFFO) and English vessel owners that currently hold a Special Permit to remove shark fins in compliance with the Regulation. Respondents were content that the legislation would not increase the regulatory burden beyond what was required under current EU legislation and National licence conditions.

## **8. Impact**

8.1 A Regulatory Impact Assessment is attached to this memorandum

## **9. Contact**

Colin Penny at the Department for Environment, Food and Rural Affairs (Defra) Tel: 0207 270 8298 or e-mail: [colin.e.penny@defra.gsi.gov.uk](mailto:colin.e.penny@defra.gsi.gov.uk) can answer any queries regarding the instrument.

# FINAL REGULATORY IMPACT ASSESSMENT

## STATUTORY INSTRUMENT 2007 No.00000 THE SEA FISHING (PROHIBITION ON THE REMOVAL OF SHARK FINS) ORDER 2007

### 1 Purpose and intended effect of the proposals

#### 1.1 Objective

1. To provide those responsible for enforcing Council Regulation (EC) 1185/2003, laying down detailed rules on the removal of fins of sharks on board vessels, with the necessary enforcement powers in relation to English and Welsh vessels fishing outside British Fishery Limits (BFL) and all vessels fishing in the English zone and within British Fishery Limits (excluding the Scottish and Northern Ireland zones, and the territorial seas adjacent to Wales, Isle of Man, Jersey and Guernsey). The SI will also set out the level of fines for an offence under the Council Regulation.

#### 1.2 Background

2. Council Regulation (EC) No 1185/2003 laying down rules on the removal of fins of sharks on board vessels came into force in September 2003. The Regulation is designed to prevent the discarding of relatively low value shark carcasses overboard, after the removal of high value shark fins for which there is a strong international market.
3. Regulation 1185/2003 prohibits the removal of shark fins on board vessels and also prohibits the keeping on board, transshipping or landing of shark fins which have been removed from the body. The Regulation does, however, recognize there may be practical reasons why shark fins need to be removed on board vessels and a need for separate on-board processing of fins and bodies, even when the carcass is retained (e.g. for freezer vessels that stay for a long period at sea). In those circumstances, the Regulation allows Member States to derogate from the general prohibitions of shark finning above by issuing a special permit which allows the on-board removal of fins, subject to the conditions that such processing is duly justified and that all parts of the sharks are used. The weight of the fins must not exceed 5% of the live weight of the shark catch.
4. Since the 1 January 2007 the Marine and Fisheries Agency have issued permits. In 2006 Defra issued permits to 10 English-registered vessels. The MFA and British Sea Fishery Officers are responsible for enforcement of the Regulation in British Fishery Limits (excluding territorial waters) and international waters.

5. The Council Regulation is directly applicable in Member States. However, the Regulation extends to waters outside EC waters and it has been drawn to our attention that we do not currently have the legislative provisions in place to fully enforce the provisions of the Regulation in respect of areas outside British Fishery Limits, including both EC, international and third country waters. The Order aims to redress these deficiencies. It is also necessary to set out the level of fines for infringements against the Regulation.

### **1.3 Application**

6. The SI would apply to all English and Welsh vessels wherever they are (except when they are within the territorial sea adjacent to Wales), to Scottish and Northern Irish vessels when operating in British Fishery Limits (excluding the Scottish and Northern Ireland zones, and the territorial seas adjacent to Wales, Isle of Man, Jersey and Guernsey), and to foreign vessels within the “English zone”.

## **2 Consultation**

7. We have consulted with the MFA, the Devolved Administrations and the Cabinet Office in drafting this SI.
8. As Council Regulation 1185/2003 is directly applicable and this Order only seeks to provide adequate implementation by way of enforcement powers for the Marine Fisheries Agency (MFA) and British Sea Fisheries Officers it is not considered that a formal consultation is necessary as it will not result in any change to the current practices of stakeholders.
9. However, we have informally consulted the National Federation of Fishermen’s Organisations (NFFO) and English vessel owners that currently hold a Special Permit to remove shark fins in compliance with the Regulation.

## **3 Options**

10. **Option 1** – do nothing. As the UK is legally obliged to implement the EC Regulation, inadequate provisions to enforce against an infringement of the Regulation could lead to infraction proceedings being taken by the Commission and therefore this is not realistically an option.
11. **Option 2** – implement an SI to ensure the EC Regulation can be enforced against English and Welsh vessels wherever they fish and Scottish, Northern Irish and all other vessels in the “English zone”; and set out penalties for infringements against the Council Regulation.

## **4 Costs and benefits**

12. There would not be any additional costs to businesses arising from this Order as it will not result in any changes of practice than those currently employed. The proposed measures would not give rise to any further costs to Government or its agencies as enforcement would be achieved through existing MFA budgets and procedures.

## **5 Small Firms Impact Test**

13. We have written to all of the businesses that currently hold a Special Permit (10 vessels) and also the National Federation of Fishermen's Organisations (NFFO) to assure ourselves that there is no additional burden to them. Respondents were content that the legislation would not increase the regulatory burden beyond what was required under current EU legislation and National licence conditions.

## **6 Competition Assessment**

14. This SI will ensure that Council Regulation 1185/2003 can be enforced equally against all vessels in English waters and English and Welsh vessels wherever they fish. Without this Order enforcement officers would be unable to take action against English and Welsh vessels, which prosecute shark fisheries outside British Fishery Limits.

## **7 Enforcement and Sanctions**

15. Enforcement would be undertaken by the Marine Fisheries Agency and British Sea-Fishery Officers. This Order sets out the maximum level of fines (£50,000) and penalties for offences against Council Regulation 1185/2003.

## **8 Implementation and Delivery**

16. We intend for this Order to enter into force on the 1st October 2007.

## **9 Summary and recommendation**

17. This SI should be implemented in order to provide enforcement provisions for fisheries enforcement officers to fully implement the requirements of the directly applicable Council Regulation (EC) No 1185/2003. There would be no additional costs to businesses as the Regulation is already directly applicable and there would be no changes required to their current practices.

## **10 Declaration and Publication**

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

**Signed .....Phil Woolas.....**

**Date           29th August 2007**

## **Phil Woolas, Minister for the Environment**

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