

EXECUTIVE NOTE

THE SEA FISHING (NORTHERN HAKE STOCK) (SCOTLAND) ORDER 2006 SSI/2006/505

1. The above Order was made in exercise of the powers conferred by Section 30(2) of the Fisheries Act 1981. The instrument is subject to negative resolution procedure.

Policy Objective

2. The purpose of this instrument is to transpose the measures contained in Council Regulation (EC) 811/2004 which establishes measures for the recovery of the Northern Hake stock. The measures being implemented aim to increase over of a period of some 5 – 10 years the quantities of mature fish in the Northern Hake stock.

3. Scientific evidence is that many of the main fish stocks found in waters around Scotland and elsewhere in the European community are outwith safe biological limits, caused mainly by overfishing. Without improved fisheries control, conservation and other measures designed to safeguard fish stocks and ensure their long-term sustainable exploitation will not be fully effective. Certain stocks could collapse with significant impact on the fishing industry and dependant communities.

4. This instrument implements the Council Regulation measures for the recovery of the Northern Hake stock by imposing certain conditions and restrictions for those fishing for Northern Hake in waters to the west of Scotland, the North Sea, the Channel, all around Ireland, the Bay of Biscay, the Kattegat and the Skagerrak. The main measures are:

- A record of entry and exit to the area must be noted in vessel logbooks.
- Margins of tolerance for the amount retained onboard recorded in the logbook are reduced from 20% to 8% (for hake only).
- Vessels landing over 2 tonnes of hake must provide four hours prior notification of entry into port and can only land into designated ports.
- Catches of hake must be stowed separately from other species in vessel fish rooms.
- All quantities of northern hake which are transported for first sale to a location other than the place of landing must be accompanied by a copy of the landing declaration(s) relating to the quantity of hake being transported.
- At least 1 in 5 of all landings of northern hake at designated ports must be sample weighed in the presence of controllers. In Scotland, those controllers are British Sea Fishery Officers from the Scottish Fisheries Protection Agency unless the boat is party to an arrangement made among vessels using the ports with a person or organisation to act as controller and that arrangement has been approved by the Department.

Consultation

5. Consultation with the fishing industry and other interested parties took place when the Council Regulation was drafted.

Financial Effects

6. A Regulatory Impact Assessment has been carried out and is attached. This instrument specifies that as required by the Council Regulation, masters of fishing vessels with more than 2 tonnes of Northern Hake are required to land at a designated landing port. The Council Regulation requires all vessels, including those under 10 m, carrying in excess of 2 tonnes of northern hake to land at a designated landing port. This may increase vessels operating costs if they have to land at a different port to their usual port. In addition, the master or their representative of all vessels (including those under 10metres) landing more than 2 tonnes of Northern Hake will be required to notify the Department of certain details including the date and estimated time of arrival in port of the vessel and the quantities of catch onboard. Notification may be by email, fax or telephone. These costs are estimated to be between a minimum of £5 and a maximum of £10 per notification (depending on the means of reporting used).

However, it should be noted that in 2004 not one under 15m vessel landed a catch of Northern hake that was in excess of 2 tonnes.

**Scottish Executive Environment and Rural Affairs Department
Sea Fisheries (Management) Division**

October 2006

Regulatory Impact Assessment

Title of proposal

1. Regulatory Impact Assessment on The Sea Fishing (Northern Hake Stock) (Scotland) Order 2006.

Purpose and intended effect

Objectives

2. This Order allows for the enforcement in Scotland of the provisions of Council Regulation (EC) No 811/2004 which established measures for the recovery of the Northern Hake stock. The measures being implemented aim to increase over of a period of some 5 – 10 years the quantities of mature fish in the Northern Hake stock.

Background

3. Commission Regulation (EC) 811/2004 establishes measures for the recovery of the Northern Hake stock by imposing certain conditions and restrictions for those fishing for Northern Hake in waters to the west of Scotland, the North Sea, the Channel, all around Ireland, the Bay of Biscay, the Kattegat and the Skagerrak. The main measures are:

- A record of entry and exit to the area must be noted in vessel logbooks.
- Margins of tolerance for the amount retained onboard recorded in the logbook are reduced from 20% to 8% (for hake only).
- Vessels landing over 2 tonnes of hake must provide four hours prior notification of entry into port and can only land into designated ports.
- Catches of hake must be stowed separately from other species in vessel fish rooms.
- All quantities of northern hake which are transported for first sale to a location other than the place of landing must be accompanied by a copy of the landing declaration(s) relating to the quantity of hake being transported.
- At least 1 in 5 of all landings of northern hake at designated ports must be sample weighed in presence of controllers. In Scotland, those controllers are British Sea Fishery Officers from the Scottish Fisheries Protection Agency or the boat is party to an arrangement made among vessels using the ports with a person or organisation to act as controller and that arrangement has been approved by the Department.

Rationale for government intervention

4. The EU measure reflects the scientific evidence that the numbers of mature hake in the Northern hake stock are declining. The concern is that should this trend continue, stock levels will reach a point where replenishment of numbers cannot occur. It is imperative therefore those measures are adopted sooner rather than later to allow stock levels to recover. The measures adopted by the Commission introduce what is in effect a fairly light regime designed to achieve stock recovery with a minimum of pain for the industry. However, failure to act now will no doubt result in more draconian measures being taken in the future. Additionally, failure to implement these measures will leave us open to possible infraction proceedings.

Consultation

Within government

5. UK policy in relation to the adoption and implementation of detailed rules has been agreed by SEERAD and the other Fisheries Administrations in the UK.

Public consultation

6. No formal consultation has been carried out by the Scottish Executive although industry was consulted during development of the legislation in Europe. The Department wrote out to industry in February 2005 to advise about the introduction of these measures and to provide detailed guidance on the arrangements to apply when landing catches of Northern Hake in excess of 2 tonnes. This guidance still remains valid. Furthermore, we have sought the views of industry representatives when compiling this Regulatory Impact Assessment.

Options

7. Two options have been identified:

Option 1 – Continue to apply existing arrangements.

Option 2 – Implement the Council Regulation in full.

Costs and benefits

Sectors and groups affected

8. Businesses and individuals who own fishing vessels which operate in the restricted areas.

Benefits

Option 1 – Continue to apply existing arrangements

9. This option would allow current fishing practices to be maintained possibly yielding greater catch to the vessels in the short term and with no additional costs or time lost taking the additional steps required under the new regulation.

Option 2 – Implement the Council Regulation in full

10. These measures are not particularly onerous on industry and will only impact on 36 vessels. The measures will assist in the long term recovery of the northern hake stock and ensure the economic viability of the fishing sector which targets this stock.

Costs

Option 1 – Continue to apply existing arrangements

11. We have a legal obligation to transpose Community requirements into domestic legislation. Indeed Section 57(2) of the Scotland Act 1999 precludes members of the Executive from acting in a way that is incompatible with Community law. Non-implementation of the EU requirement increases the risk that the UK would be subject to infraction proceedings by the Commission. Infraction proceedings would adversely affect the UK Government's ability to negotiate a satisfactory fishing agreement at December council. Without sufficient fishing quotas all businesses that rely on fish to make a living would suffer.

Option 2 – Implement the Council Regulation in full

12. The costs associated with the introduction of these EU measures should be minimal. However, a reduction in quota allocation may impact on a small number of vessels, although it is difficult to determine with any accuracy to what extent. The requirement to land at designated landing

ports when landing in excess of 2 tonnes of Northern Hake should have minimal effect as all over 15m vessels already have to land at a designated landing port when carrying on board more than 1 tonne of any species for which a TAC has been set. Accordingly, fuel and reporting costs should not increase significantly. The EU measure, however, does require under 15m vessels carrying in excess of 2 tonnes to also land at a designated landing port and this may increase their operating costs if they have to land at a different port to their usual port. However, it should be noted that in 2004 not one under 15m vessel landed a catch of Northern hake that was in excess of 2 tonnes. The master or their representative of vessels landing more than 2 tonnes of Northern Hake will be required to notify the Department of certain details including the date and estimated time of arrival in port of the vessel, the quantities of catch onboard by email, fax or telephone. These costs are estimated to be between a minimum of £5 and a maximum of £10 per notification (depending on the means of reporting used).

The table below sets out the costs per annum to the bands of vessels with a track record of landings of hake over 1.5 tonnes. By using 0.5 tonnes below the amount specified in the Regulation, this should ensure compliance costs are not under estimated should a slightly higher amount of fish be caught. The calculations assume that each vessel sends just one message per trip.

Landings of Northern Hake in 2004 greater than 1.5 tonnes and related costs to industry

Vessel Length	No. of Vessels	No. of Landings	Min. annual cost to each vessel (£)	Max annual cost to each vessel (£)	Min annual cost for industry (£)	Max annual cost for industry (£)
<10M						
> 10 – 14.99M						
>15 – 23.99M	4	21	26.25	52.5	105	210
>24M	32	124	19.37	38.75	620	1240
Total	36	145			725	1450

Small/Micro Firms Impact Test

13. The majority of businesses affected will be small business who own fishing vessels which catch Northern Hake in the areas affected. These vessels have been required under separate domestic legislation to provide 4 hours prior notification if they intend to land at a non designated port or at a designated port outwith designated landing times if they have more than 1 tonne of quota species aboard. Therefore these regulations are not likely to have a disproportionate effect on small businesses as they have to comply with similar requirements. This has been confirmed following consultation with the Scottish Fishermen's Federation, Fishermen's Association and the Scottish Association of Fish Producer Organisation's who represent Scottish fishermen. None of the organisations objected to the costs or the impact we believe these regulations will have.

"Test Run" of business forms

14. No new forms will be brought in by these proposals.

Competition assessment

15. The competition filter was applied to these regulations. Two of the answers were positive so it is unlikely that there will be an impact on competition. The regulations will impact on vessel owners who operate in the affected areas, no business in this sector has a 10% share and the 3 largest businesses do not have a 50% share. It is unlikely that these measures will lead to increased start up costs for new firms.

Enforcement, sanctions and monitoring

16. Enforcement of the measures in Scotland would be undertaken by the Scottish Fisheries Protection Agency (SFPA) and in other parts of the UK by officers in the appropriate sea fisheries

inspectorates. British Sea Fishery Officers at sea will have the powers to board a vessel with or without persons assigned to help them in their duties and may require the boat to stop and do anything else which will facilitate either the boarding of, or the disembarkation from, the boat. The officer may require the attendance of the master and other persons on board the boat and may make any examination and inquiry which appears to that officer to be necessary. British Sea Fishery Officers on land may enter and inspect at any reasonable time any premises used for carrying out any business in connection with the operation of fishing boats or activities connected therewith or ancillary thereto or with the treatment, storage or sale of fish. They can also require any person to assist them in carrying out their duties and seize any documents required as evidence. In addition they can seize nets or fishery products (including receptacles) where they have reasonable grounds to believe they were used in commissioning the offence. If found guilty, the accused will be liable to a fine not exceeding £50,000 on summary conviction or on conviction on indictment to a fine. The sheriff can also order the forfeiture of any fish in respect of the offence committed or the seizure of nets used in committing the offence.

17. The effectiveness of the policy will be monitored by ICES scientists who will provide advice on the state of the Northern Hake stocks in the areas described.

Implementation and delivery plan

18. The regulations come into force on 14 November 2006. The EU regulation (which came into force in May 2005) is directly applicable to Member States prosecuting Northern Hake. These Regulations put into place necessary powers for enforcement to ensure compliance with the EU requirements. Guidance notes on the requirements and practical issues were issued to industry in February 2005. These provided a simple guide to the requirements on industry, along with an illustrative chart of the Northern Hake zone, contact details for providing prior notification of entry into port, the list of designated ports in the UK, France, Spain and the Republic of Ireland. This guidance will not change as a result of the legislation coming into force so there are no plans at the moment to revise it.

Post-implementation review

19. The operation of The Sea Fishing (Northern Hake Stock) (Scotland) Order 2006 will be reviewed within ten years of it coming into force by the Scottish Executive Sea Fisheries (Management) Division against scientific advice and details of prosecutions.

Summary and recommendation

Summary costs and benefits table

Option	Total benefit per annum: economic, environmental, social	Total cost per annum: - economic, environmental, social - policy and administrative
1	No additional costs for vessel owners.	We have a legal obligation to transpose Community law. Failure to do so will leave the UK at a higher risk of infraction proceedings.
2	Introduction of the measures would improve current control measures and assist in the sustainable management of fish stocks.	Between £725 and £1450 per annum for the industry as a whole. There would be no administrative costs in dealing with notifications as a call centre already exists.

20. Our recommendation is to introduce the measures for the recovery of the Northern Hake stock as described under option 2.

Declaration and publication

I have read the Regulatory Impact Assessment and I am satisfied that the benefits justify the costs.

Signed by responsible Minister
Ross Finnie
Minister for Environment and Rural Development

Date

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