

POLICY NOTE

THE SEA FISHING (POINTS FOR MASTERS OF FISHING BOATS) (SCOTLAND) REGULATIONS 2014

SSI 2014/379

1. These Regulations were made in exercise of the powers conferred by section 2(2) of, and paragraph 1A of Schedule 2 to, the European Communities Act 1972. The instrument is subject to negative resolution procedure.

Policy Objectives

2. Council Regulation (EC) No 1224/2009 establishing a Community control system for ensuring compliance with the rules of the common fisheries policy requires Member States to establish two points systems under which persons are assigned an appropriate number of points as a result of them having committed a serious infringement of the rules of the common fisheries policy. One points system requires to apply to the holders of fishing boat licences who have committed a serious infringement and the other system requires to apply to masters of fishing boats who have committed a serious infringement.

3. The purpose of the Regulations is to meet Scotland's obligations under Article 92(6) of Council Regulation (EC) No 1224/2009 establishing a Community control system for ensuring compliance with the rules of the common fisheries policy. Article 92(6) of the Regulation states that Member States are required to establish a point system under which a master of a fishing vessel is assigned the appropriate number of points as a result of a serious infringement of the rules of the common fisheries policy committed by him/her.

4. The agreed policy position of UK Fisheries Administrations is that a UK-wide central register of points requires to be established and operated in order to ensure a level playing field. The most practical way of achieving this is through one central authority, in this case the Marine Management Organisation, setting up and operating the register in respect of any points allocated to a master in any part of the UK. A separate statutory instrument is being made, containing provision to this effect.

5. However, it is considered appropriate that the Scottish Ministers are identified as the authority responsible for allocating points to a master of a Scottish-registered fishing boat who has committed any serious infringements of the common fisheries policy. It is therefore considered appropriate to make a Scottish Statutory Instrument which provides for points to be allocated by the Scottish Ministers in these circumstances, but which also provides for the way in which those points feed into the UK-wide central register.

6. In the context of the points system for the holders of fishing boat licences, Commission Implementing Regulation (EU) No 404/2011 laying down detailed rules for the implementation of Council Regulation (EC) No 1224/2009 prescribes specific periods of suspension of the licence where the licence holder accumulates a specified number of points. Where the licence holder accumulates 90 points, the licence requires to be permanently withdrawn. Although neither of the EU Regulations makes such specific detailed provision in respect of the points system for masters, the policy objective is that the points system for masters should mirror the operation of the points system for licence holders as far as possible.

Consultation

7. Officials and Ministers from the other UK Fisheries Administrations (Department for Environment, Food and Rural Affairs, Marine Management Organisation, Welsh Assembly Government and Department of Agriculture Rural Development Northern Ireland and their predecessor departments) were involved in the negotiation of the Council Regulation. Specific discussion on the points system for masters has been taken forward between respective officials following on from the establishment of an administrative points system for licence holders introduced in June 2013.

8. Given the very limited number of individuals - i.e. masters of Scottish fishing boats convicted of a serious fisheries offence - that might be impacted by the Regulations, it was not considered necessary to run a public consultation in Scotland. Analysis of recorded convictions for the last five years shows that no master of a Scottish fishing boat would have reached the trigger point for suspension under the provisions of the Regulations.

Financial effects

9. There are no financial implications associated with bringing this EU requirement into place. The Regulations do not seek to preclude the presence of a suspended or disqualified master on board a fishing boat, nor prevent a suspended or disqualified master carrying out any activities which fall outwith the functions that only certified masters of fishing vessels are qualified to discharge. The Regulations will not give rise to further costs to the Scottish Government. Enforcement of these Regulations will be achieved within the existing administrative budgetary provision for Marine Scotland. A copy of the Business and Regulatory Impact Assessment is attached.

Implementation

10. Similar and related Regulations (the Sea Fishing (Points for Masters of Fishing Boats) Regulations 2014) will come into force in January 2015 and will be implemented in England, Wales, Northern Ireland and (where appropriate) Scotland. EU legislation requires every Member State to establish a points system for masters of fishing vessels, there is no immediate system or regime to which the points system can be attached (unlike the fishing boat licensing scheme in relation to the points system for licence holders). The UK Fisheries Administrations are therefore in a position whereby they have to create a new system where points can be assigned to masters and which is underpinned by subordinate legislation.

Marine Scotland

Scottish Government
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