

www.food.gov.uk

FINAL BUSINESS AND REGULATORY IMPACT ASSESSMENT

1. TITLE OF THE PROPOSAL

The Fish Labelling (Scotland) Amendment Regulations 2015.

2. PURPOSE AND INTENDED EFFECTS

(i) Objectives

The proposed Fish Labelling (Scotland) Amendment Regulations 2015 will provide for the enforcement of the additional consumer information requirements contained in Regulation (EU) No 1379/2013 of the European Parliament and the Council, enacted on 11 December 2013. They will thus bring the Scottish legislation up to date to reflect the revised EU legislation on fisheries.

(ii) Background

New requirements to provide the consumer with additional information on fish and fishery products at the retail stage have been introduced throughout the EU. These requirements applied from 13 December 2014 and are set out in the fourth chapter of Regulation (EU) No 1379/2013 of the European Parliament and the Council. The new enforcement requirements are set out in the Fish Labelling (Scotland) Amendment Regulations as follows:

- To amend the 2013 Regulations to reflect the new EU consumer information requirements on type of fishing gear used and date of minimum durability and a more precise definition of farmed production area or catch area for fish caught at sea.
- Furthermore, to amend the 2013 Regulations to refer to the revised EU Fisheries legislation.

Legislative framework

Previous situation

Common Fisheries Policy (CFP) Control Regulation

(EC) 1224/2009 – Established a community control system for ensuring compliance within the rules of the common fisheries policy

(EC) 404/2011 – Sets out detailed rules for the implementation of 1224/2009

Common Organisation of the Markets in Fishery and Aquaculture Products (CMO)

(EC) 104/2000 – Base Regulation

(EC) 2065/2001 – Detailed rules for the application of 104/2000

Scottish Statutory Instrument (SSI)

The Fish Labelling (Scotland) Regulations 2013 (SSI 2013 No 256) – provides for the enforcement in Scotland of the European legislation on traceability and consumer information requirements.

The current consumer information requirements are as follows: Fishery and aquaculture products may only be offered for retail to the final consumer where appropriate marking or labelling indicates:

- The commercial designation of the species, and scientific name
- The production method, in particular by the following words 'caught' or 'caught in freshwater' or 'farmed' or 'cultivated'
- The area where the product was caught or farmed
- Whether the product has previously been frozen, to be indicated by the word 'defrosted'

New requirements applied fully from 13 December 2014)

Common Organisation of the Markets in Fishery and Aquaculture Products (CMO)

- Regulation (EU) No 1379/2013 – Repealed and replaced Regulation (EC) No 104/2000 from 1 January 2014 (*Consumer information on commercial designations, catch area and production methods remain in force until 12 December 2014*) and introduces revised consumer information requirements from 13 December 2014.
- Regulation (EU) No 1420/2013 – repeals Regulation (EC) No 2065/2001 with effect from 13 December 2014.

Common Organisation of the Markets in Fishery Products (CMO)

(EU) 1379/2013 – This Regulation updates and consolidates the European consumer information requirements which are listed below:

Chapter IV Consumer Information

Fishery and aquaculture products may be offered for sale to the final consumer or to a mass caterer only if appropriate marking or labelling indicates:

- (a) the commercial designation of the species and its scientific name;
- (b) the production method, in particular by the following words "... caught ..." or "... caught in freshwater ..." or "... farmed ...";

- (c) the area where the product was caught or farmed, and the category of fishing gear used in capture of fisheries, as laid down in the first column of Annex III to this Regulation;
- (d) whether the product has been defrosted;
- (e) the date of minimum durability, where appropriate.

Description of the new requirements

The new requirements are to include on the labelling:

- the equipment used to catch the fish
- the date of minimum durability, where appropriate

The existing requirement to provide information on where a fish has been farmed or caught is now more specific. The revised requirement is for information that satisfies a tighter definition of the country of origin of farmed fish and a more precise definition of catch area for fish caught at sea.

Scope of application

The CMO *‘Information to the Consumer’* requirements apply to fishery products falling under Chapter 3 of the Combined Nomenclature established by Council Regulation (EEC) No 2658/87

(iii) Rationale for Government Intervention

Provision must be made within domestic legislation to ensure Local Authorities can enforce the new consumer information requirements. Intervention is required to ensure that the market supplies the consumer with the information that is now required, and to maintain consistency in how this is applied throughout the industry.

In the absence of Government intervention, industry may not label these goods or may use inconsistent terminology. Increased information to consumers at the point of purchase will enable consumers to make more informed choices, including expressing a preference for fish that has been caught in a sustainable manner. They are expected to benefit from the greater certainty and clarity that the increased information will provide, and to have increased confidence in the quality of the product they are purchasing, while the sustainability of fisheries worldwide could be increased in response to consumer preference. Government intervention is needed to ensure that the new EU consumer information requirements are enforced effectively.

3. CONSULTATION

(i) Business

During the consultation period on the 2013 Regulations, officials from the Food Standards Agency in Scotland engaged with several Scottish businesses to discuss the impact of that particular SSI on their activities.

In June 2014, the FSA supported a Seafish event in Boddam, Peterhead covering food labelling with an emphasis on fishery products and the specific fish labelling requirements.

The consultation and related meetings enabled businesses to raise their concerns. Businesses are keen to understand what the EU requirements mean for their particular product lines.

In terms of face to face conversations with businesses, FSAS staff have had discussions with senior management from Nolan Seafoods Ltd and Joseph Robertson Ltd, both in Aberdeen, and from the Peterhead Port Authority. In addition, email and telephone conversations have taken place with Dawnfresh Seafoods Ltd, Scottish Seafood Association, Scottish Association of Fish Producers' Organisations (SAFPO), and the Scottish Salmon Producer's Association.

The most common concerns expressed by businesses have been around the revised requirement to provide information on where a fish has been caught, specifically a more precise definition of catch area for fish caught at sea. Previously, the requirement to define a catch area was broad in its geographical description, typically the term North East Atlantic is used by Scottish Fishermen. A more precise catch area based on internationally recognised sub areas of the sea is now required and this is not currently widely used and will result in modified labelling requirements. Systems to capture and pass on this more detailed information are not generally in place and the industry sector is looking for additional guidance on what is precisely required to ensure a level playing field across the EU. In response to this concern, the European Commission published a pocket guide to the Regulations and intends to issue a list of catch areas with translations in key EU languages to help clarify the required information. During the consultation, comments were received indicating that relabelling and familiarisation costs would be higher than those estimated in the Partial BRIA.

(ii) Public Consultation

A 4 week Public Consultation was carried out in Scotland during autumn 2014. Similar consultations have been held in England, Wales and Northern Ireland. FSA(S) received comments from two private individuals concerned that fish were sometimes labelled in ways that misled the consumer about the country of origin and production method. The proposed legislation should help to address these concerns and the FSA will keep this under review.

(iii) Within Government

The Scottish consultation plans were discussed with officials from Marine Scotland and the Scottish Government, and their views were sought on the consultation package issued with the SSI. A meeting was held with Seafish during which the difficulty raised by the revised requirement for catch area information (see above) was outlined. Seafish noted that the required catch area information is recorded electronically when fish are caught and is subsequently passed on to official inspectors. However, in their view data protection requirements means that this information is not currently readily accessible to processors and others in the supply chain.

4. OPTIONS

Option 1: Do not introduce the requirements

This is the baseline option, considered here as a benchmark against which to assess the costs and benefits. The UK would not be meeting its obligations under EU law if we did not provide for the enforcement of the consumer information elements of the revised Common Organisation of the Markets in Fishery Products(CMO).

Option 2: Amendments to be made under a domestic statutory instrument.

This is the preferred option. It ensures that Scottish Ministers will meet their obligations under agreed EU legislation.

The preferred option is Option 2

5. SECTORS AND GROUPS AFFECTED

In the following paragraphs the main groups affected by implementation of the CMO in Scotland and their scale are described. The latest data from official and reliable sources are used but this has meant that not all data relates to the same year; with some available from 2012 and other statistics from earlier years. However, this is unavoidable and the following builds up the most accurate picture possible of the sectors affected.

(i) Industry

The rules apply to labelling of fish and providing information at the retail stage, therefore those parties who sell directly to the consumer will have to make sure that what they sell complies with the law. Retailers will need to work with their suppliers to make sure that they agree on the approach for making the information available, whether this is provided on the packaging or by using posters/billboards.

a. Producers (Fishers, Aquaculture Businesses & Producer Organisations)

- i. In 2012 there were 2,046 vessels in all sectors of the fleet with 1,448 10m and under in length and the remaining 598 over 10m (Marine Scotland, 2013)¹. In 2012, there were 4,747 fishing operatives in Scotland. The total value of landings (into the UK and abroad) of Scottish administered vessels was £465.5m in 2012 (Marine Scotland, 2013). All of these producers will be affected by implementation of the CMO due to marketing requirements and labelling changes.
- ii. There are 810 aquaculture sites in Scotland² employing around 1,700 full-time equivalent (“FTE”) people directly with a further estimated 3,000 jobs in processing. The estimated total output of the sector in 2012, covering finfish and shellfish production, was around 170,000 tonnes worth £560m at the farm gate.³

b. Seafood processors and preservers

- i. Although processors and wholesalers are unlikely to be selling products directly to the consumer they will be affected by any labelling changes requested by their buyers. Retailers may request that processors incorporate the required information into the product label. This will very much depend on the commercial situation of each business and what suits them best.
- ii. A report on the Seafood Processing industries estimates that processors employ 7,808 FTE people in Scotland (Seafish,

¹Marine Scotland 2013: “Scottish Sea Fisheries Statistics 2012”.

<http://www.scotland.gov.uk/Topics/Statistics/Browse/Agriculture-Fisheries/PubFisheries>

² Aquaculture site data from http://aquaculture.scotland.gov.uk/data/site_details.aspx

³ Data from Marine Scotland, presented on-line by The Scottish Government at <http://www.scotland.gov.uk/Topics/Statistics/Browse/Agriculture-Fisheries/TrendAquaculture>.

2012)⁴. Data from the Inter Departmental Business Register (IDBR) estimated that there were 400 firms that process and preserve seafood in the UK in 2010, the majority of which are micro and small size businesses. Of the total number of processors and preservers in the UK, 175 are located in Scotland.

Table 1: Seafood processors and preservers in Scotland (Interdepartmental Business Register (IDBR) 2010 reproduced from Food Standards Agency 2012).

| Region/size (employees) | Micro (0-9) | Small (10 - 49) | Medium (50 - 249) | Large (250+) | Total |
|-------------------------|-------------|-----------------|-------------------|--------------|-------|
| Scotland | 98 | 51 | 21 | 5 | 175 |

c. Fish Wholesalers and Retailers

- i. Fish wholesalers and retailers will also be affected by the new mandatory labelling and marketing standards requirements. In 2012, the UK seafood sector was worth around £6.2 billion (Seafish, 2013a)⁵. The following tables summarise the two groups in Scotland.

Table 2: Seafood wholesalers in Scotland 2010 (IDBR data reproduced from Food Standards Agency 2012).

| Country | Micro | Small | Medium | Large | Total |
|----------|-------|-------|--------|-------|-------|
| Scotland | 199 | 44 | 8 | 0 | 251 |

Table 3: Seafood Retailers Scotland 2010 (IDBR data reproduced from Food Standards Agency 2012).

| Country | Micro | Small | Medium | Large | Total |
|----------|-------|-------|--------|-------|-------|
| Scotland | 4,423 | 354 | 25 | 8 | 4,810 |

- ii. Ultimate responsibility will lie with retailers, those who sell directly to the consumer, since this is where the rules apply. Retailers will need to work closely with their suppliers and processors to ensure that the products are sold in compliance with the rules. There may be work required in order to ensure that the relevant information flows along the supply chain so that all mandatory information is provided to the customer. Seafood retailers here include any retailer that could potentially sell seafood products, including general food retailers, retailers not in stores, stalls and markets and those within. In addition, some of the businesses included above could be part of the same organisation meaning they would share management. Therefore the affected population

⁴ Seafish 2012: “2012 Survey of the UK Seafood Processing Industry”.
http://www.seafish.org/media/Publications/2012_Survey_of_the_UK_Seafood_Processing_Industry.pdf

⁵ Seafish, 2013a: “Seafood is a multi-billion pound industry in the UK”.
<http://www.seafish.org/research--economics/market-insight/market-summary>

and subsequent costs based on it are likely to be overestimates.

(ii) Consumers

Successful implementation of the marketing standards and labelling requirements of the CMO in Scotland will provide consumers with more information about the sustainability of fish products; as gear type used is a substantial factor in determining environmental impact of a product. This additional information should help consumers choose products that are sourced sustainably and labelling and marketing standards will give them confidence in the quality and safety of products. The changes to national legislation are not expected to place costs directly on consumers but increased costs along the supply chain could be passed on to them in the form of higher prices.

(iii) Government

The primary responsibility for enforcing the CMO in Scotland lies with Marine Scotland. In addition Enforcement Officers in Local Authorities enforce labelling and marketing standards requirements at the point of final sale. There are 32 Local Authorities in Scotland. Officers in each Authority will need to familiarise themselves with the new requirements.

6. OPTION APPRAISAL: COSTS AND BENEFITS

Options

Option 1 - Do Nothing

This option would mean continuing with the current rules and would not implement the changes to fish labelling that have been agreed amongst EU Members. No incremental costs would be incurred, no incremental benefits would ensue, but the UK would be at risk of infraction proceedings. This is the baseline against which other options are appraised.

Option 2 - Amendments to be made under a domestic SI

This option would see the amendments to the requirements for fish labelling set out and introduced within a Statutory Instrument for Scotland.

Costs

Analysis is carried out over a 10 year period as per HM Treasury Green Book guidance; so the analysis period is 2014-2023. The revised CMO will be reviewed by the Commission in 2022. Overall, implementation in Scotland is

expected to affect approximately 4,100 businesses. Costs are discounted at the treasury discount rate of 3.5%.

Option 1 - Do Nothing

4.3 The amended CMO came into force 1st January 2014. Some parts of it are already in effect in Scotland. The elements of the amended CMO that are the focus of this analysis are those aspects that require changes in legislation, in particular amending the marketing standards regulations and enforcing the necessary labelling changes that came into force on 13th December 2014. Therefore the relevant baseline costs are the costs of complying with and enforcing the labelling requirements and marketing standards under the previous CMO and so the enforcement costs are not anticipated to be any greater under option 2 than option 1. Baseline costs have not been quantified as they will occur regardless of implementation of the CMO under Option 1. However, under Option 1 the UK would not be fully implementing an EU Regulation and would be at risk of infraction proceedings. The minimum infraction fine that can be imposed on the UK is 9.446 million Euros.

Option 2

Industry

(i) Re-labelling costs

Industry will be affected, since product labels will need to be changed to reflect changes in the information that must be provided to consumers, and clearly this has cost implications. To estimate these costs we first noted that DEFRA (2014)⁶ concluded, following expert advice, that only ‘minor’ labelling changes would be needed to comply with the requirements of the CMO. DEFRA had followed the approach introduced by the Campden report (2010)⁷ on the costs of labelling changes in the UK. This report classifies labelling changes as being major or minor, with a minor change being one that involves only changing the text on a single face of the label, with no packaging size modification being required to accommodate this. We then used the Kantar dataset, which estimates that 2,775 fishery products were being sold across the UK in 2011. We multiplied this number by £1,800, which is the trimmed mean cost of re-labelling per stock keeping unit (SKU) for minor changes. This calculation was made in the same way as those used in the impact

⁶ See https://consult.defra.gov.uk/fisheries/cmo-in-fishery-and-aquaculture-products/supporting_documents/CMO%20Consultation%20IA%20Final.docx

⁷ Campden 2010: “Developing a framework for assessing the costs of labelling changes in the UK” (FFG 0901). <http://archive.defra.gov.uk/evidence/economics/foodfarm/reports/documents/labelling-changes.pdf>

assessments for the Provision of Food Information to Consumers Regulation (FIC)⁸ and for the Fish Labelling Regulations 2013.⁹ .

It is assumed that information on generic gear types is already held by businesses (or can be easily obtained from the supply chain) and dates of minimum durability can be provided at no extra cost since, for packaged products, they already have to display a date of minimum durability. Freshness of fish is determined by many factors such as handling, processing, whether previously frozen or not and time since being caught or produced. For fish mongers, there may be additional complications resulting from the possible mixing of batches of slightly different freshness and new products being added to the counter throughout the day. However, during the consultation period, the European Commission clarified that the date of minimum durability requirements under the fisheries CMO do not extend to fishery products that have not been pre-packed, so this will slightly reduce any burdens that would otherwise result. Furthermore, DEFRA reported that the Food and Drink Federation had advised it that businesses could simply tell their customers to consume all products on the day or within a few days of purchase, with no additional business cost. Therefore these labelling/information costs are expected to be negligible and so have not been quantified. Marketing standards (MS) costs are also expected to be negligible as the requirements broadly align with pre-existing legislation (i.e. products already have to meet these standards). The total re-labelling cost for the UK is estimated as £4,995,000 using the approach outlined above, with an Equivalent Annual Cost (EAC) to UK industry of £580,295, spread out across 55,150 businesses (processors, wholesalers and retailers), Since 5,235 of these businesses are located in Scotland, their pro rata share of the estimated re-labelling cost is £474,140, with an EAC of £55,083.

(ii) One-Off Familiarisation Costs

There will be a one-off cost to industry for reading and familiarising themselves with the new Regulation. Familiarisation costs depend on the time it takes for a manager to read and familiarise him/herself with the Regulation, and on her/his hourly wage rate.

Time will be spent acquiring, reading and understanding the legislation, seeking external advice where necessary. Across the supply chain, it is

⁸ Defra, 2012: “Impact Assessment on a Statutory Instrument implementing Regulation (EU) 1169/2011 on the provision of food information to consumers” (Defra IA 1443), https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/82667/consult-fic-ia-20121107.pdf

⁹ DEFRA 2012: “Impact Assessment on Amending the Fish Labelling (England) Regulations 2010”, https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/82590/20120918-fish-labelling-consult-ia.pdf

assumed that micro and small businesses will require 1 hour to familiarise themselves. This is also the case for medium and large businesses with an additional hour to disseminate to other colleagues. The average hourly rate is up-rated by 30% to take account of overheads in line with standard cost model methodology.

Familiarisation cost, then, is calculated as the quantity of responsible employees' time that is required, multiplied by their wage rate (+30% to account for other non-wage overheads) (Table 6); multiplied by the number of businesses (tables 3–6); in line with standard cost methodology. Time to familiarise varies by business size as it is assumed that dissemination takes longer with more employees. Stakeholders are invited to comment on these assumptions.

Using the estimates of familiarisation costs from Table 4 below and the numbers of businesses affected, the industry familiarisation costs shown in Tables 5-7 are obtained:

Table 4: Proxy hourly gross mean wage rates including overtime (Annual Survey of Hours and Earnings (ASHE) 2012) and time to familiarise (MMO, WG & Defra, 2013).

| Type of business | Hourly wage rate | Hourly wage rate plus 30% to include non-wage overheads | Time to Familiarise (Hours) |
|---|------------------|---|--|
| Managers and proprietors in forestry, fishing and related services (proxy for aquaculture managers and fishers) | £15.73 | £20.45 | fishers: 0.5 aquaculture: 1 |
| Managers and directors in retail and wholesale (proxy for micro and small processors and wholesalers) | £13.79 | £17.93 | micro: 0.5 small: 1 |
| Shopkeepers and proprietors – wholesale and retail (proxy for micro and small retailers) | £17.33 | £22.53 | micro: 0.5 small:1 |
| Shopkeepers and proprietors – wholesale and retail (proxy for medium and large processors and wholesalers) | £17.33 | £22.53 | medium: 1.5 large: 2 |
| Quality assurance and regulatory professionals (proxy for Producer Organisation (PO) managers and medium and large retailers) | £21.01 | £27.31 | POs: 1 medium retailers: 1.5 large retailers: 2 |
| Quality assurance and regulatory professionals (proxy for Enforcement Officers e.g. Local Authorities and Marine Scotland) | £21.01 | £27.31 | Enforcement Officers: 2 Marine Scotland Officers: 4 |

Table 5: Familiarisation costs to Seafood processors and preservers in Scotland

| Micro (0-9) | Small (10 - 49) | Medium (50 - 249) | Large (250+) | Total | Annual Equivalent (10 years) |
|-------------|-----------------|-------------------|--------------|--------|------------------------------|
| £879 | £914 | £710 | £225 | £2,728 | £317 |

Table 6: Familiarisation costs to Seafood wholesalers in Scotland

| Micro (0-9) | Small (10 - 49) | Medium (50 - 249) | Large (250+) | Total | Annual Equivalent (10 years) |
|-------------|-----------------|-------------------|--------------|--------|------------------------------|
| £1,793 | £789 | £270 | £0 | £2,852 | £331 |

Table 7: Familiarisation costs to Retailers in Scotland

| Micro (0-9) | Small (10 - 49) | Medium (50 - 249) | Large (250+) | Total | Annual Equivalent (10 years) |
|-------------|-----------------|-------------------|--------------|---------|------------------------------|
| £49,825 | £7,976 | £1,024 | £437 | £59,262 | £6876 |

In addition, familiarisation costs are accrued by Producer Organisations (10 in total covering both fisheries and aquaculture), the fishing fleet (all 2,046 vessels) and aquaculture businesses (810). Based on the wage rates and assumed familiarisation times shown in Table 4, the following costs are obtained.

Table 8: Fishers and Aquaculture business costs from CMO familiarisation.

| Type | Total | Annual Equivalent (10 years) |
|------------------------|-------------------|------------------------------|
| Fishers | £20,920 | £2,427 |
| Aquaculture | £16,564 | £1,922 |
| Producer Organisations | £273.10 | £31.69 |
| Total | £37,757.10 | £4,381 |

Government Costs

The FSA, who work with the enforcement officers in the local Environmental Health departments, have indicated that the additional mandatory labelling and marketing standards (MS) requirements can be enforced under the existing system at no extra costs. This is because the labelling and MS changes are minor and broadly align with existing legislation. Therefore, the only costs to Environmental Health are familiarisation costs, which are assumed to be 2 hours of each enforcement officer's time. It is assumed that one officer will be responsible for seafood labelling enforcement at each local authority in Scotland, and there are 32 Scottish LAs. The total familiarisation cost would therefore be £1,748, or an annual equivalent cost of £203 for ten years.

Consumers

Under policy Option 2 we envisage no incremental costs for consumers. Whilst the legislation is not expected to place costs directly on consumers, it is possible that where costs arise along the supply chain (e.g. to processors, wholesalers, retailers) these costs could be passed along the chain and ultimately be reflected (partially or wholly) in higher prices for those products on sale to consumers. However, as the changes are relatively small, it is assumed that these would be negligible.

Summary of Costs

As discussed, the net impacts of implementation of the reformed CMO in Scotland are expected to be minimal as changes from the baseline are not significant and costs here may be an overestimate reflecting conservative assumptions on the number of businesses impacted, their wage rates and the time taken to become familiar with legislation. **Option 2 results in a gross cost to business of £576.7k (10 year annual average £67k) and an Equivalent Annual Net Cost to Business (EANCB) of £0.067m.** Table 9 summarises the costs of Option 2.

Table 9: Total costs and their net present values of policy Option 1.

| Type | Familiarisation / Advice Costs (2014) | Re-labelling Costs | Annual Equivalent (10 years) | Net Present Value of Costs |
|--|---------------------------------------|--------------------|------------------------------|----------------------------|
| Producers (Fishers, Aquaculture and POs) | £37,757.1 | | £4,381 | £43,810 |
| Processors and Preservers | £2,728 | | £317 | £3,165 |
| Wholesalers | £2,852 | | £331 | £3,309 |
| Retailers | £59,262 | | £6,876 | £68,762 |
| All Private | £102,599.1 | £474,140 | £66,988 | £669,880 |
| Local Authorities | £1,748 | | £203 | £2,028 |
| Total Public | £1,748 | | £203 | £2,028 |
| Total | £104,347 | | £67,191 | £671,908 |

Benefits

Option 1 - Do Nothing

This option would mean continuing with the current rules and would not implement the changes to fish labelling that have been agreed amongst EU Members. No incremental benefits would ensue. Consumers would not benefit from the EU initiative in terms of informed choice if the additional consumer information is not made available at the point of retail sale. This is the baseline against which other options are appraised.

Option 2 - Amendments to be made under a domestic SI

Consumers would have the benefit of knowing how seafood has been caught or farmed, which would help inform their purchasing decisions. Ensuring enforcement of the marketing standards and labelling requirements will protect customers, who can be sure of what they are buying and its quality. Furthermore, industry might be able to command premium prices for products produced in a more sustainable fashion as such products are differentiated by mandatory information about the type of fishing gear used. If consumers were willing to express a preference for sustainably-produced seafood in this way, benefits to the environment would follow.

The benefits of the preferred option 2 are not quantified or monetised as it has not been possible to do so, given the existing evidence base. In addition, implementation of the CMO reform in Scotland will be complemented by other policies that aim to improve industry profitability and sustainability; making attribution of benefits to the CMO alone difficult.

5. SCOTTISH FIRMS IMPACT TEST

The Food Standards Agency in Scotland (FSAS) has attended and supported various meetings with food businesses and stakeholders to inform them of the changes to fish labelling requirements that will be introduced by the new legislation. This work includes:

In June 2014, the FSA supported a Seafish event in Boddam, Peterhead covering food labelling with an emphasis on fishery products and the specific fish labelling requirements;

In September 2014 the FSA visited Peterhead fish market to meet stakeholders in their workplace and to discuss the ways in which they are likely to be affected by the changes. Visits were also made to the premises of two businesses. In addition, email and telephone conversations have taken place with three industry associations and another business.

The most common concerns expressed by businesses have been around the revised requirement to provide information on where a fish has been caught, specifically a more precise definition of catch area for fish caught at sea. A more precise catch area based on internationally recognised sub areas of the sea is now required and this is not currently widely used and will result in modified labelling requirements. Systems to capture and pass on this more detailed information are not generally in place and the industry sector is looking for additional guidance on what is precisely required to ensure a level playing field across the EU. In response to this concern, the European Commission published a pocket guide to the Regulations and intends to issue a list of catch areas with translations in key EU languages to help clarify the required information.

In addition, two businesses believed they faced unfair competition from imported fishery products being sold as Scottish when they had only been processed in this country. The Food Standards Agency will consider this further in the context of country of origin labelling. Two businesses also commented that relabelling and familiarisation costs would be higher than those estimated in the Partial BRIA. It was noted, however, that since these businesses produced processed fisheries products any additional relabelling and familiarisation costs would be linked to the introduction of the EU Food Information to Consumers Regulation. The Food Standards Agency will keep this under review.

None of the respondents to the Consultation expressed any concern about the requirements to provide consumer information about the type of fishing gear used and the date of minimum durability, while the European Commission has recently clarified that the latter requirement applies only to pre-packed fish.

(i) Competition Assessment

The proposed legislation applies to all relevant UK fish industry businesses equally, allowing them to trade across EU Member States, if appropriate. It should not limit the number or range of suppliers either directly or indirectly or reduce the ability of, or incentives to, suppliers to compete. Therefore, it is not expected to have a significant impact on competition.

Using the Competition and Markets Authority competition assessment framework developed by the former Office of Fair Trading¹⁰, it has been established that the preferred policy option (Option 2) is unlikely to have any material negative impact on competition. We assert that this policy will not limit the number or range of suppliers directly or indirectly nor will it limit the ability or reduce incentives of suppliers to compete vigorously.

(ii) Test Run of Business Forms

No new or additional forms will be introduced by this proposal therefore no test run need be completed.

7. ENFORCEMENT, SANCTIONS AND MONITORING

The labelling regulations will be enforced in Scotland by Local Authority Environmental Health Departments.

Sanctions for Non-Compliance

No changes are being proposed to the criminal sanctions contained in the existing 2013 legislation.

Monitoring

The effectiveness and impact of the regulations will be monitored via feedback from stakeholders, including Enforcement Agencies, as part of the ongoing policy process. Agency mechanisms for monitoring and review include; open fora, stakeholder meetings, surveys and general enquiries.

8. IMPLEMENTATION AND DELIVERY PLAN

The enforcement provisions for chapter IV of Regulation (EU) No 1379/2013, which consolidates and updates the European consumer information requirements, will be implemented in Scotland by the Fish Labelling (Scotland) Amendment Regulations 2015. It is proposed to bring the Regulations into force as soon as possible given the introduction of the new EU rules. In addition, we plan to issue a joint communication with Marine Scotland to raise awareness of the new consumer information requirements and also the importance of meeting the traceability requirements from the catching sector through to processing and retail stages.

The publication of the Fish Labelling (Scotland) Amendment Regulations 2015 will be communicated to stakeholders by means of an Interested Parties' letter. This will be done shortly after the SSI has been published on the legislation.gov.uk website.

Post Implementation Review

The revised CMO will be reviewed by the Commission in 2022.

¹⁰ https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/284451/OFT1113.pdf
The Competition and Markets Authority is now responsible for this area of work.

9. SUMMARY AND RECOMMENDATION

Option 2 would mean that consumers would know how seafood has been caught or farmed, which would help inform their purchasing decisions. They would be protected by enforcement of the marketing standards and labelling requirements, since they could then be sure of what they are buying. Furthermore, industry might be able to command premium prices for fishery products produced in a more sustainable fashion since such products are differentiated by mandatory information about the type of fishing gear used. If consumers were willing to express a preference for sustainably-produced seafood in this way, benefits to the environment would follow.

This is the preferred option. It ensures that Scottish Ministers will meet their obligation to implement agreed EU legislation.

DECLARATION

I have read the impact assessment and I am satisfied that (a) it represents a fair and reasonable view of the expected costs, benefits and impact of the policy, and (b) that the benefits justify the costs. I am satisfied that business impact has been assessed with the support of businesses in Scotland.

Signed:

Date:

Minister's Name, Title & Department:

Maureen Watt, Minister for Public Health

Contact point for enquiries and comments

Stephen Hendry
Food Standards Agency in Scotland
St Magnus House
25 Guild Street
Aberdeen
AB11 6NJ

Telephone: 01224 285153
E-mail: Stephen.Hendry@foodstandards.gsi.gov.uk