

REGULATORY APPRAISAL

SEA FISHERIES, WALES

THE SEA FISHING (NORTHERN HAKE STOCK) (WALES) ORDER 2006

Purpose and intended effect of the measure

1. This Order transposes the provisions of Council Regulation 811/2004 establishing measures for the recovery of the Northern hake stock, which inhabits the Kattegat (the sea between Denmark and Sweden), the Skagerrak (the sea between Denmark and Norway), the North Sea, the Channel, waters to the west of Scotland and all around Ireland and the Bay of Biscay. The SI applies to any vessels operating in Wales.
2. The objective of the enforcement regime is to improve the monitoring of the activities of vessels catching hake. Annually, the European Union sets Total Allowable Catch quotas for Hake (as well as for other fish) for each member state. This Order will increase the quantities of Northern Hake stock by enabling better enforcement of these quotas and restricting the illegal, undeclared, or misreported fishing and landing of Hake. The Order provides more stringent regulations for the recording and storage of catches at sea, and more restrictions rules for the landing of catches in port.
3. Northern Hake is rarely targeted by Welsh fishing vessels, and Welsh vessels targeting this stock will usually land the hake outside of Wales, therefore, the enforcement of this Order will affect few, if any Welsh vessels. However, this Order is necessary to monitor and control the fishing for and landing of Northern Hake, in Wales, by other British and foreign fishing vessels.
4. The main elements of the Order are:
 - records of entry and exits to the area must be noted in vessel logbooks;
 - margins of tolerance when estimating the amounts retained onboard recorded in the logbook are to be reduced from 20% to 8% (for hake only);
 - vessels landing over two 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 over 50Kgs 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; and
 - at least one in five of all landings of northern hake at designated ports must be sample weighed in presence of controllers. For Wales, those controllers are British sea-fishery officers from the Marine Fishery Agency.
5. The Order creates offences in respect of the contravention, by the person in charge of the fishing boat (or the individuals specifically referred to) of provisions of the Regulation. The offences relate to failing to record and account for time in a log book, failing to provide certain information and/or

follow the directions of a British sea-fishery officer when landing at a designated port, the failure to land in a designated port where more than two tonnes of northern hake are to be landed and the failure to weigh a representative sample, the failure to comply with the 8% tolerance for logbook records relating to catches of fish and the mixing of species and transporting of northern hake in a manner inconsistent with the Order.

6. Enforcement would be undertaken predominantly by British Sea Fisheries Officers operating under UK legislation, and those found guilty of an offence could face fines through the courts of up to £50,000.

Risk Assessment

7. Recent scientific evidence received from the International Council for the Exploration of the SEA (ICES), shows that the Northern hake stock is at historically low levels caused mainly by over fishing and is threatened with collapse. Without improved fisheries control arrangements, conservation and other measures designed to safeguard the stock and ensure its recovery, will not be fully effective. This would have a significant impact on the fishing industry.
8. The Northern hake recovery measures will make it easier for enforcement officers to ensure there is no increase in UK fishing effort for this stock.

Options

9. In respect of this legislation the “Do Nothing option” is not an option as it would lead ultimately to infraction proceedings against the UK by the European Commission. Therefore, the make the legislation option is the only option, to implement the changes required to comply with European legislation.
10. Implementing this Order would improve the monitoring, inspection and surveillance of the activities of vessels catching hake. This will facilitate control of the overall level of fishing mortality and more effective enforcement of quota limits and thereby help to ensure recovery of the stock.

Benefits

11. This Order will provide for improved traceability and control, which will lead to better compliance with quota limits for the Northern hake stock. The measures will assist in the long-term recovery of the northern hake stock. Also, this Order will assist the economic viability of the fishing sector, which targets this stock by restricting illegal fishing activity.

Costs

12. The Order will not impose any significant additional operating costs for vessels landing less than two tonnes of northern hake, as only logbook recording of entry and exits to and from the Northern hake zone is required. However, for those vessels landing over two tonnes of Northern hake, new costs may be incurred in relation to the requirement for the Master or their representative to notify the Marine Fisheries Agency in advance by email, fax, or telephone details of the date and estimated time of arrival in port and the quantities of catch on board. These costs are estimated to be between a minimum of £5

and a maximum of £10 per message (depending on the means of reporting used).

13. 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 Order (i.e. two tonnes), this should ensure compliance costs are not underestimated should a slightly higher amount of fish be caught. The calculations assume that each vessel sends just one message per trip. However, in the case of vessels, which only fish for a relatively short period, the master or their representative may choose to give an estimated time of arrival and then provide an update of catch on board nearer to the estimated time of arrival to take into account fish caught in the time before landing. Not all of these costs will be new as some vessels will already be making the necessary notifications under existing national rules on designated landing ports.

UK Northern hake landings 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 the industry (£)
<10m	0	0	0.0	0.0	0	0
>10m – 14.99m	1	5	25.0	50.0	25	50
>15m – 23.99m	23	117	25.4	50.9	585	1170
<24m	54	335	31.0	62.0	1675	3350
For all vessels	78	457			2285	4570

14. Few if any Welsh vessels will be affected by the implementation of this Order.
15. There are no financial implications for the Assembly, because any enforcement work related to this legislation would be met from the Department for Environment, Food and Rural Affairs (Defra) budget for the Marine Fisheries Agency, which acts on behalf of the Assembly. Also, any work associated with preparation of this Order is being accommodated within existing administration costs budgets.

Small Firms Impact Test

16. Virtually all businesses in the fish catching industry are classified as small or medium size enterprises (SMEs). The vast majority are micro businesses (less than 10 employees). Therefore, this impact assessment is looking at the impact on small firms. In addition, this Order is not likely to have a disproportionate impact on smaller businesses.

Competition assessment

17. The competition assessment filter was applied to these Regulations, which apply equally to all businesses, and no competition concerns were identified.

Consultation

With Stakeholders

18. No public consultation was carried out prior to the EU Regulation being put in place. Similarly, no public consultation was undertaken in the UK because this Order exclusively implements the provisions of this EU Regulation, and introduces no further offences or penalties. However, in May 2004, Defra sent a letter notifying industry of this Order and enclosing a copy of guidance notes to all owners of all vessels over 10 metre long in England and Wales (approximately 60 Welsh vessels). The letters invited recipients to contact local fishery offices for further guidance or copies of the guidance notes. The industry has been kept informed of the progress of this Order through the fish producer organisations who were generally supportive of the measures. There is only one producer organisation in Wales - the Wales and West Coast Producers Organisation.

With Subject Committee

19. This Order was notified to the Environment, Planning and Countryside Committee, via the list of forthcoming legislation on 5 October 2005 (EPC (2)-11-05 (p.7) Annex 2, item no. 87 CFA 129). However, the title of the Order at that time was The Sea Fishing Northern Hake Stock (Wales) Order 2005. The Order was identified for scrutiny, which took place on 11 May 2006 (EPC(2)-07-06 (p.10)). The Committee approved the Order without amendment. A copy of the Committee transcript is attached at Annex A.

Enforcement, sanctions and monitoring

20. The EU Regulation (which came into force in May 2005) is directly applicable in Member States landing Northern hake. This Order puts in 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 2004. 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 and a list of designated ports in the UK, France, Spain and the Republic of Ireland.

21. Enforcement of the Order would be undertaken predominantly by British Sea Fisheries Officers operating under UK legislation, and those found guilty of an offence could face fines through the courts of up to £50,000.

22. The uptake of quota in the Northern hake zone will be monitored continuously by Member States against agreed ceilings. Those ceilings may be adjusted annually by the EU depending on the status of the stock.

Summary

23. This Order transposes EU provisions, for the recovery of the Northern hake stock, into Welsh legislation, and will apply to any vessels operating in Wales. Although additional controls may cause some fishermen to incur small costs in the short term, this Order will ensure recovery of the Northern hake stock, in the long term, to a sustainable level at which additional controls can be removed.

Annex A – Extract from the EPC meeting on 11 May 2006

Glyn Davies: Fine, thank you. So, we have dealt with that. We now have the Sea Fishing (Northern Hake Stock) (Wales) Order 2006. Are there any questions on that draft Order? Is there any scope for change, or does it just implement EU regulations? That means that it is something about which we do not have much choice, other than to do it.

Carwyn Jones: There is a tangential effect on Wales, in that most Welsh vessels do not actually go after northern hake. The reason we need the legislation is because other UK vessels or foreign vessels may look to land hake in Wales, so we need the legislation in place. It is fair to say that most of the hake catch is landed outside Wales, and that it is sought by vessels that are not Welsh.

Glyn Davies: Are we all happy with that? I see that we are, so we will move on to the evidence session