

REGULATORY APPRAISAL

SEA FISHERIES, WALES

CONSERVATION OF SEA FISH

THE SCALLOP FISHING (WALES) ORDER 2005

Background

1. In the run up to the introduction of scallop licensing, fishermen asked that appropriate technical conservation measures be brought in to help protect the scallop fishery. The proposal was developed in the Fisheries Conservation Group; a group consisting of fishermen's organisations, scientists and the UK Fisheries Departments, set up by Ministers in order to examine ideas for improved technical conservation measures proposed by the industry itself and others. Stakeholders were invited to comment on the resulting recommendations.

Purpose and intended effect of the Measure

2. The Order will help promote scallop conservation by supplementing the UK Scallop-Licensing Scheme, which limits the number of vessels which can fish for scallops in UK waters, by:
 - limiting the use of French dredges, which are considered to disproportionately damage the sea bed;
 - limiting the size of dredges to a weight of no more than 150kg and the number of dredges that a vessel can use to 4 dredges on each side of the boat out to 3 nautical miles, and 8 dredges on each side of the boat from 3 nautical miles to 12 nautical miles, i.e. the extent of Welsh waters;
 - controlling the configuration of the dredges;
 - restricting the length of towbar that a vessel can use, to a length consistent with the deployment of 4 dredges out to 3 miles and 8 dredges from 3-12 miles i.e. the extent of Welsh waters;
 - strengthening enforcement of minimum landing sizes by controlling the size of scallops which can be carried on vessels in Welsh waters to a minimum of 110mm;
 - providing enforcement officers with guidance for the measuring of scallops;
 - setting the conditions under which British Sea Fisheries Officers enforce the legislation; and
 - introducing a close season for the period 1 June to 31 October (inclusive) each year; for 2005 the close season will begin on the day after the order comes into force.

Risk Assessment

3. There are currently about 400 licensed vessels in Wales of which less than a dozen have been involved in scallop fishing in the last two years. The measures

on number and design of dredges (restrictions on teeth and belly rings) aim to build on existing good practice within the Welsh industry.

4. French dredges are already banned in many parts of the UK and we are not aware of any Welsh fishermen who use this type of gear. The proposal to restrict French dredges further will have little effect on Welsh fishermen but will restrict the possible future use of this potentially harmful gear.
5. The revoking of the UK Statutory Instrument on minimum landing sizes for scallops in Wales will remove the minor differences between it and the newer requirements under the EU technical conservation regulation (Council Regulation (EC) No 850/98), which came into force on 1 January 2000. This reflects the fact that smaller scallops are found off South East Ireland and may be legitimately fished.

Options

Option 1: Do nothing

6. If this legislation is not put in place then the fishery will remain unprotected from possible over fishing.

Option 2: Make the legislation

7. This Order will meet the needs of the Welsh fishing industry by helping promote scallop conservation.

Benefits

8. The measures should better protect the scallop stocks and, as a result, should protect catch opportunities for future years.

Costs

9. Fishermen who want to fish inside and outside the 3 nautical mile limit from baselines will need to purchase an extra set of towbars costing about £2,000 per vessel. The industry has been consulted on this additional cost and are content.
10. Approximately 50% of those fishing for scallops work from vessels of 10m or less. There may be some small losses to these vessel owners in the short term, as outlined above, but in the longer term there will be benefits from more sustainable fisheries. There have been no additional costs highlighted for small businesses.
11. There are no additional financial implications for the Assembly as any enforcement work related to this legislation would be met from the Department for Environment, Food and Rural Affairs (Defra) budget for the Sea Fisheries Inspectorate, who acts on behalf of the Assembly.

Competition Assessment

11. There will be no negative competitive impact arising from this regulation, as it neither restricts the ability of firms to choose the price, quality, range or location of their products, nor will it lead to a differentiation in costs between new and

existing fishermen. The Order is unlikely to affect the market structure. No Company has more than 10% share of the Welsh market.

Consultation

With Stakeholders

12. This Order has been subject to two formal public consultation exercises, including publication of the proposals on the Internet. The first consultation was undertaken on 19 April 2004, and ended on 25 June 2004. In response to that exercise, stakeholders proposed a number of changes including the introduction of a close season. On legal advice a second consultation was undertaken from 13 December 2004 and ended on 4 February 2005. The proposed Order has taken account of comments received during both exercises. A list of consultees is attached at Annex 1.
13. Following scrutiny at the Environment, Planning and Countryside Committee on 13 April 2005, the Minister for Environment, Planning and Countryside agreed to undertake further consultation with the industry on a proposed towbar amendment. The industry was consulted on the 14 April 2005 about the proposed amendment and the additional cost, and were supportive on the basis that it will make enforcement easier and therefore enhance conservation. The same consultation list has been used for all consultations.

With Subject Committee

14. The Order has been scrutinised by the Environment, Planning and Countryside Committee at its meeting on 13 April 2005 (Paper 2, Annexes 1-3).
15. The Committee suggested two amendments:
- to increase the number of allowable dredges per side, out to 3 nautical miles, from 3 to 4; and
 - to introduce a new section to the Order which would limit the length of the tow bar which vessels could use, to a length consistent with the deployment of 4 dredges out to 3 miles and 8 dredges from 3 to 12 miles.
16. The Committee voted in agreement of the amendment to the increase from 3 to 4 dredges out to 3 miles. The Minister for Environmental Planning and Countryside agreed to amend the Order.
17. The second amendment was withdrawn on the basis of the Minister's agreement to further discuss the proposed amendment with the industry. This further discussion has since taken place, and the Minister agreed to amend the Order accordingly. This has resulted in a new section (i.e. Article 4 of the Order) being inserted to cover the second amendment, which goes a little further than originally proposed as a result of further consultation with the industry. Article 4(1) refers to the 3 mile limit from shore, whilst Article 4(2)(a)&(b) sets out the requirements of the towbar within that area. Article 4(3)

refers to the 3-12 mile limit from shore, whilst Article 4(4)(a)&(b) set out the requirement of the towbar within that area.

18. The same consultation list has been used for all consultations.

19. The Order has been amended to take into account both amendments suggested by the Committee

Enforcement, sanctions, monitoring and review

20. Enforcement would be undertaken predominantly by British Sea Fisheries Officers operating under UK legislation.

Summary

21. This Order is aimed at providing additional protection for Welsh scallop fisheries, which are in danger of being over fished. Whilst local interests have acknowledged the need for better management and would be happy to introduce voluntary measures, other visiting UK vessels are not so inclined. Therefore, the regulatory route is the only meaningful way of ensuring a sustainable fishery. The Order will only affect the catching sector of the Welsh fishing industry, and it is these fishermen that will bear the cost.

ANNEX 1

List of Organisations Contacted

ORGANISATION
Rawlings Trawling
Rhyl Fishermans Assoc.
Milford Haven Shellfishermens Assoc.
North Western & North Wales Sea Fisheries Committee
Welsh Inshore Fishermans Assoc.
South Wales Fisheries Committee
Cardigan Bay Fishermans Assoc.
National Federation of Fisherman's Organisations
SW&WFC Ltd
Burry Inlet Hand Gatherers Association
DI Wales
Countryside Council for Wales
Conwy Mussel Fishermans Assoc.
Welsh Federation of Sea Anglers
Myti Mussels Ltd
National Federation of Chartered Skippers
Llyn Fishermen's Association
Penclawdd Shellfish Processors Ltd
Saundersfoot Fishermans Assoc.
Pembrokeshire County Council
Wales & West Coast Producer Organistaion
Pembs Fisheries Development Assoc.
SWSFC
Deepdock Ltd
Association of Sea Fisheries Committees
Joint Fishing Communities of South & West Wales
NWNWSFC
Countryside Council for Wales

*Plus 19 individuals