

EXPLANATORY MEMORANDUM TO
THE SEA FISHING (POINTS FOR MASTERS OF FISHING BOATS) REGULATIONS
2014

2014 No. 3345

1. This explanatory memorandum has been prepared by Department for Environment, Food and Rural Affairs and is laid before Parliament by Command of Her Majesty. It contains information for the Joint Committee on Statutory Instruments.
2. **Purpose of the instrument**
 - 2.1 These Regulations set up a system for the allocation of points to masters of English, Welsh and Northern Irish fishing boats who have committed serious infringements of EU fisheries law. They provide for the setting up and maintenance of a register that details the points allocated to convicted masters. The Regulations are intended to discourage repeat offending.
3. **Matters of special interest to the Joint Committee on Statutory Instruments or the Select Committee on Statutory Instruments**
 - 3.1 None.
4. **Legislative Context**
 - 4.1 The key purpose of these Regulations is to ensure compliance with the rules of the Common Fisheries Policy. Specifically, the EU Fisheries Control Regulation (Council Regulation 1224/2009) requires Member States to establish a points system for masters of fishing vessels who commit “serious infringements” of fisheries law. A list of serious infringements is set out in Annex XXX of the Control Regulation detailed rules (Commission Regulation 404/2011)
 - 4.2 The Regulations will apply to the masters of all fishing vessels registered in England, Wales and Northern Ireland. Separate Regulations are being made in the Scottish Parliament to implement points for masters in Scotland but there will be a UK register showing the points allocated to UK masters of fishing vessels.
5. **Territorial Extent and Application**
 - 5.1 This instrument extends to England, Wales and Northern Ireland. Some provisions also extend to Scotland. Regulation 14 (review of the Regulations) only applies in England.
6. **European Convention on Human Rights**

As the instrument is subject to negative resolution procedure and does not amend primary legislation, no statement is required.

7. Policy background

What is being done and why

7.1 The Common Fisheries Policy (CFP) requires Member States to limit and control catch volumes and to comply with technical rules and effort schemes. The Control Regulation is at the heart of CFP and sets out a control and enforcement system for ensuring compliance with its rules. The Control Regulation requires Member States to apply points to vessel licences and also to the masters of fishing vessels when serious infringements of the CFP occur.

7.2 Full details of the points scheme for fishing vessel licences are set out in the Control Regulation and are directly applicable in the UK. The Control Regulation does not however specify the details of the points scheme for masters, these must be put in place by Member States and are the subject of these Regulations. To aid industry understanding and transparency, the Regulations will apply points to masters on as close a basis as possible to the existing vessel licencing system.

8. Consultation outcome

8.1 A 6 week consultation was carried out, ending on 19 November. There were 20 responses to the consultation from a range of sectors including the fishing industry, the recreational sector, environmental NGOs and local authorities (IFCAs) with the majority supporting the proposal. The key reactions were:

- 60% broadly agreed with the proposal to base the number of points on the system already used for vessel licences and among those who did not agree no clear option or consensus for an alternative approach emerged.
- 65% supported the proposal to prohibit a master who reaches a points threshold from acting as master of a fishing vessel or thought the sanction should be tougher.
- 65% supported the proposed periods of suspension for those reaching points thresholds or felt they should be tougher.
- 65% agreed that vessel owners should be required to check that any master they put in charge of their vessels is not currently suspended.

8.2 Given that responses were mainly positive and no clear alternatives to our proposals emerged, no changes have been made to the measures as set out in the consultation document.

9. Guidance

9.1 Formal Defra Guidance is not required. The MMO, as the administrators of the new system, will be responsible for making the fishing industry aware of the changes.

10. Impact

10.1 The impact on business, charities or voluntary bodies is low .

10.2 The impact on the public sector is expected to be minimal as there is already a UK database of infringements which requires only minor modification to include masters.

10.3 An Impact Assessment is attached to this memorandum and is published alongside the Explanatory Memorandum on the legislation.gov.uk website.

11. Regulating small business

11.1 These Regulations apply to small business. There are some large operators in the fisheries sector but in the main this industry is made up of small to medium sized businesses. Industry will incur minimal costs. As this measure relates to actions that occur as a result of illegal activity (i.e. receiving points and licence suspension) it does not of itself impose a burden on business.

12. Monitoring & review

12.1 The Regulations will be regularly reviewed to ensure that they remain fit for purpose.

13. Contact

13.1 Jacinta Vaz at the Department for Environment, Food and Rural Affairs, Tel: 0207238 4434 or email: jacinta.vaz@defra.gsi.gov.uk can answer any queries regarding the instrument.