

# **Environment, Planning & Countryside Committee**

**EPC(2)-07-06(p10) (Annex 2)**

**To: Business Committee**

**From: Carwyn Jones, AM**

**Minister for Environment, Planning and Countryside**

**Draft Explanatory Memorandum**

**Sea Fisheries, Wales**

**The Sea Fishing (Northern Hake Stock) (Wales) Order 2006**

## **Summary**

This order provides for the control of fishing and landing of Northern Hake in Wales, through improved monitoring and enforcement of the activities of vessels catching Hake. This will facilitate more effective enforcement of quota limits and thereby help to ensure recovery of the stock.

This Memorandum is submitted to the Assembly's Business Committee in relation to the Sea Fishing (Northern Hake Stock) (Wales) Order 2006, in accordance with Standing Order 24.6.

A copy of the Instrument is submitted with this Memorandum.

## **Enabling Power**

The powers enabling this Instrument to be made are contained in section 30(2) of the Fisheries Act 1981. Responsibility for issues relating to the contents of this Order has been delegated to my portfolio as Minister for Environment, Planning and Countryside.

## **Effect**

This Order provides for the administration and enforcement, (which includes the monitoring, inspection and surveillance) of the provisions of Council Regulation (EC) No. 811/2004 "establishing measures for the recovery of the northern hake stock". The Order is a recovery plan for Northern Hake, and was introduced following scientific advice received from the International Council for the Exploration of the Sea (ICES), to increase the quantities of the northern Hake stock. (The basis of the advice from ICES

was that the level of mortality of this species has eroded the levels of mature fish to a point where the stock may not be able to replenish it through reproduction and potential for collapse.)

The stock in question inhabits the Kattegat, the Skagerrak, the North Sea, the Channel, waters to the west of Scotland and all around Ireland and the Bay of Biscay.

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.

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.

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.

## **Target Implementation**

It is intended that this Instrument be made on 5 July 2006 and come into force on 7 July 2006. A delay in the coming into force date would delay the enforcement, in Wales, of EU provisions for the control of fishing and landing of Northern Hake.

## **Financial Implications**

The Order will not impose any significant additional operating costs for vessels landing less than 2 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 2 tonnes of Northern hake, new costs may be incurred in relation to the requirement for the Master or their representative to notify the Department 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).

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, this should ensure compliance costs are not under estimated 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 his 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

Few if any Welsh vessels will be affected by the implementation of this Order.

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.

## **Regulatory Appraisal**

A Regulatory Appraisal has been carried out in relation to this Instrument and is attached.

## **Consultation**

With Stakeholders

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, a letter notifying industry of the new Regulation and enclosing a copy of guidance notes has been sent to all vessels for whom the Department held records of landings in 2004 into the UK of over 1.5 tonnes of Northern hake and a summary letter was sent to all licence holders of vessels over 10m and interested organisations for whom no track record was found. The letters invited recipients to contact local fishery offices for further guidance or copies of the guidance notes.

## **With Subject Committee**

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). The Order was identified for scrutiny, which will take place on 11 May 2006

## **Recommended procedure**

Subject to the views of the Business Committee, I recommend that this Order proceed to plenary under the Standard procedure to give Members a further opportunity to debate this Order.

## **Compliance**

The proposed legislation will (as far as is applicable):

have due regard to the principle of equality of opportunity for all people (Government of Wales Act 1998, section 120);

be compatible with the Assembly's scheme for sustainable development (section 121);

be compatible with Community Law (section 106); be compatible with the Assembly human rights legislation (section 107);

be compatible with the Assembly human rights legislation (section 107); and

be compatible with any international obligations binding the UK Government and the Assembly (section 108).

This Memorandum has been cleared with the Directorate of Legal Services (DLS) and by the Assembly Compliance Office.

Drafting lawyer: Caroline Matthews (Ext. 5633)

Head of Division: Mike Dunn (Ext. 3533)

Policy Division Contact: Mathew Xerri (Ext. 3556)

**Carwyn Jones AM 2006**  
**Minister for Environment, Planning and Countryside**