

Non-qualifying Regulatory Provisions Template

Regulator: Marine Management Organisation

Business Impact Target Reporting Period Covered: 8th May 2015 – 26th May 2017

Excluded Category*	Summary of measure(s), including any impact data where available**
A – EU and International	<p><u>Management of quota and fishing effort, technical conservation measures and control measures:</u></p> <p>Europe's fishing activity is managed mostly through the EU Common Fisheries Policy (CFP), a piece of framework legislation that is implemented by the MMO in England. Sitting underneath the CFP are a number of EU regulations that have direct effect in UK legislation; these regulations are used to manage fisheries in three main areas: management of quota and fishing effort, technical conservation measures and control measures (such as log books and vessel monitoring systems).</p> <p>The MMO has determined that activities it undertakes in these categories are to be classed as '<i>Non-Qualifying Regulatory Provisions (NQRPs)</i>' as there is an exemption in the ministerial statement for: '<i>Regulatory provisions that implement new or changed obligations arising from European Union Regulations, Decisions and Directives</i>'. Examples of such activities would include fisheries closures, area closures and technical measures which cover restrictions to net sizes and gear type, and landing obligations (otherwise known as the discard ban) and associated control (recording) of this.</p> <p>Fisheries closure measures - these measures target specific species eg on 1st January 2017, sea bass fisheries were closed to certain fishing methods and fishers were not allowed to target the species. This measure came directly from the European Union and was implemented verbatim within English waters within the geographical areas included in the legislation.</p> <p>Area closure measures - the closure of specific areas comes directly from Europe to protect specific species of fish and no decision by the MMO is required as to when or where the measures is applied, therefore this is not considered as gold-plating under the exemption.</p> <p>Technical measures; this encapsulates net size and the type of fishing gear used eg trawling to reduce catch of undersized fish - similar to area closures, these measures come directly from Europe and are implemented verbatim from the Union eg design and use of specific fishing gears for trawling and mesh size for fishing nets. There have been no new measures regarding net size since 29th May 2015.</p>

Technical measures; landing obligations (discards ban) - this programme of work will be implemented on a rolling basis until 2019 and again the European Union will provide specific measures regarding what is required of fishers on landing in port:

<https://www.gov.uk/government/publications/landing-obligation-discard-ban-2017-guidance/landing-obligation-general-requirements-guidance-2017>

Associated control (recording): Fishers are required to report fish catches using logbooks while at sea, and declare these catches on landing into a port. Transporters are required to keep a record of the fish they carry and Merchants are required to report purchases of fish at the first point of sale. These requirements have been implemented in the UK for several years (since 2009 – first logbook regulations were implemented in 1983. They have been revised and replaced by various regulations since) and are part of EU legislation (Council Regulation (EU) No. 1224/2009) which also sets out obligations to report electronically (the detailed requirements in terms of specific elements to be reported, by whom and when are set out in Commission Implementing Regulation (EU) No. 404/2011 and its subsequent revision (Regulation (EU) 2015/1962)). There has been no change to the primary legislation since its introduction in 2009. Please see project proteus for a non-qualifying regulatory provision regarding recording of fisheries catch and sale.

The MMO produces a blue book that provides links to all the EU measures that apply to English waters and which the MMO regulate: <https://www.gov.uk/government/publications/fishing-regulations-the-blue-book>. Sections D, E, F, G and H are applicable to the measures defined above and list all the individual measures that have come into force. All measures within these sections are either:

- Not applicable to English waters
- Came in prior to May 2015
- Those few (listed below) that have come into force since 2015 are specific measures, require no ‘gold-plating’ therefore would be non-qualifying regulatory provisions under the EU exemption:
 - [EU Bass Minimum Size Derogation](#) (July 2015)
 - [North Sea Demersal Discard Plan](#) (Oct 2015 and Oct 2016)
 - [North Western Waters Demersal Discard Plan](#) (Oct 2015 and Oct 2016)

This exemption only applies to the implementation of EU regulations and historically, a number of pieces of domestic fisheries legislation

were also developed such as the *Lyme Bay Designated Area (Fishing Restrictions) Order 2008 (No. 1584)*. Many of these pieces of domestic legislation were repealed through the Government's Better Regulation and Red Tape Challenge initiatives, and from the remaining ones, most came into force pre-May 2015 (therefore out of scope of the BIT).

One notable exception is the development of common conditions in fishing vessel licences under the *Sea Fish (Conservation) Act 1967* as read with *Sea Fish Licensing (England) Order 2015 (No. 647)*. As well as providing a large number of implementing measures to support enforcement of EU regulation, some of these conditions restrict fishing activity in certain areas and, in particular, include a single set of conditions that were developed post May 2015 for the "Farne Deeps" area of the North Sea. These measures were introduced on an emergency basis as the nephrops stock was close to collapse. Despite this measure being introduced post May 2015, the MMO also determines this to be a '*Non-Qualifying Regulatory Provision*'. The emergency status of the measure meant that ministerial agreement was reached to forgo requirement for Impact Assessment (emails attached); in addition, there is a separate exemption in the ministerial statement for '*regulatory provisions specifically relating to civil emergencies*' (in particular: '*an event or situation which threatens serious damage to the environment of a place in the United Kingdom*'). This emergency measure is still in place as there is a continued risk of collapse to the nephrops stock in the Farne Deeps area. Therefore this measure remains in place as of March 2017 and it would be for Defra to advise, based on evidence, when the emergency measure can be removed.

As such, the only fisheries measures that the MMO determines would be in scope of the BIT are internal business improvement measures such as changes to processes, or IT systems. Examples of these include provision of a new electronic reporting system for catch and sales data and a project changing quota management rules.

Offshore MPA management: Offshore marine protected areas and related management were brought about through Article 11 of the Common Fisheries Policy. There is no domestic legislation in place for the requirement of offshore MPA management. Offshore MPA management measures have to be agreed by EU Member States and Defra lead on this discussion. The MMO contribute evidence towards this process as well as advice on enforcement and compliance in relation to management measures. As the requirement for the management measures within Offshore MPAs comes directly from the EU, this measure is classified as a '*Non-Qualifying Regulatory Provisions (NQRPs)*'

	<p>as there is an exemption in the ministerial statement for: <i>‘Regulatory provisions that implement new or changed obligations arising from European Union Regulations, Decisions and Directives’</i>.</p> <p><u>Fishing vessel engine power monitoring</u>: UK fisheries administrations must establish measures to ensure compliance with the rules of the Common Fisheries Policy – see Council Regulation (EC) No 1224/2009. The regulation requires member states to verify the declared engine power of fishing vessels. As part of this process the UK fisheries administrations, the MMO, will be conducting physical tests of engine power of some of its fleets. The sampling plan was established based on the requirements of Commission Implementing Regulation (EU) No 404/2011, article 62 methodology. This was adopted by the Commission based on the principles of Council Regulation (EC) No 1224/2009, article 119. The MMO are in the early stages of beginning this work, in accordance with the regulation. Owners of fishing vessels have been contacted and vessels visited where appropriate to undertake inspection of engine instillation and to verify information held and provided. The regulatory provision is non-qualifying because it is directed by EU legislation and therefore meets the criteria under the exemption <i>“Regulatory provisions that implement new or changed obligations arising from European Union Regulations, Decisions and Directives”</i>.</p>
D - Civil Emergencies	<p><u>Farne Deep area emergency closure</u>: Under the <i>Sea Fish (Conservation) Act 1967</i> as read with <i>Sea Fish Licensing (England) Order 2015 (No. 647)</i>, common conditions in fishing vessel licences can be developed as well as conditions that restrict fishing activity in a particular area. A single set of conditions that were developed post May 2015 for the “Farne Deep” area of the North Sea were introduced on an emergency basis as the nephrops stock was close to collapse. Despite this measure being introduced post May 2015, the MMO also determines this to be a <i>‘Non-Qualifying Regulatory Provision’</i>. The emergency status of the measure meant that ministerial agreement was reached to forgo requirement for Impact Assessment; in addition, there is a separate exemption in the ministerial statement for <i>‘regulatory provisions specifically relating to civil emergencies’</i> (in particular: <i>‘an event or situation which threatens serious damage to the environment of a place in the United Kingdom’</i>). This emergency measure is still in place as there is a continued risk of collapse to the nephrops stock in the Farne Deep area. Therefore this measure remains in place as of March 2017 and it would be for Defra to advise, based on evidence, when the emergency measure can be</p>

	removed.
L2 – Education, communications and promotion	<p><u>Combatting the illegal, unreported and unregulated sale of fish:</u> The MMO has delivered an awareness-raising campaign to reinforce customer understanding and knowledge of fisheries legislation. MMO staff have been handing out leaflets and giving stakeholders information on what the legislative requirements (Council Regulation (EC) 1224/2009, The Control Regulation – Requires sales notes to be provided and the detailed rules can be found in Commission Implementing Regulation (EU) 404/2011. The Registered Buyers and Sellers Regulation SI1605/2005 – requires buyers to be registered) are for the sale, purchase and catching of fish commercially. This has been centred on unregistered food service establishments, although registered premises have been approached to ensure that fish from unlicensed vessels is not purchased. We have also targeted unlicensed vessels to make sure they are aware their catches cannot be bought. Making sure that all purchases of fish caught by licensed vessels is carried out in accordance with the regulations, and that fish caught by unlicensed vessel is not purchased, gives certainty to the market. This means that fish is purchased at the correct market value, and not undercut by cheaper purchases of “black fish”.</p> <p><u>Outcome focussed compliance:</u> The MMO has a regulatory responsibility to ensure compliance with, and where required enforce, legislation relating to fisheries activity (Common Fisheries Policy 1380 /2013, Control Regulation (1224/2009) and associated Implementing Rules (404/2011)). UK fisheries management is predominantly driven by the Common Fisheries Policy, a piece of legislation from the European Union. The MMO has introduced a different focus for compliance monitoring and enforcement activities, ensuring they are more focussed on achieving a pragmatic and proportionate outcome rather than centering on 'punishing' offending which is often timely and costly for both parties. This work has been internally focused, delivering training to staff and making changes to the compliance and enforcement programme of work and there are no direct impacts on MMO customers/stakeholders. It is therefore non-qualifying under the exemption “L2: Education, communications and promotion”.</p> <p><u>Project Proteus:</u> See below for more information on Project Proteus. None of the material produced as part of this project creates a new regulatory standard that businesses will be expected to follow.</p>
L4: Changes to the organisation and the management of the regulator	<p><u>Project Proteus:</u> Under existing EU requirements, fishers are required to report fish catches using logbooks while at sea, and declare these catches on landing into a port. Merchants are required to report</p>

	<p>purchases of fish at the first point of sale. These requirements have been implemented in the UK for several years and are part of EU legislation (Council Regulation (EU) No. 1224/2009) which sets out obligations to report electronically (the detailed requirements in terms of specific elements to be reported, by whom and when are set out in Commission Implementing Regulation (EU) No. 404/2011 and its subsequent revision (Regulation (EU) 2015/1962)).</p> <p>In the UK, data has been submitted via a single electronic hub hosted by an external service provider under a joint contract funded with the UK Devolved Administrations. This contract is coming to an end and there is a drive to reduce Government costs by developing an in-house hosted portal. Project Proteus is developing the hub for the UK fisheries administrations in England, Wales, Northern Ireland and the Isle of Man (Marine Scotland is developing the hub for the Scottish fishing industry).</p> <p>The new system will not require any additional information from fishers rather minimise the impact on industry from the change to the system. As part of the work the MMO is redeveloping the current portal fishermen and merchants use to view the data they have submitted and in some cases where they can make declarations on-line. Therefore the key elements of functionality (data input and layout) will be the same as the old system. However, there are some elements of change that are required to meet the Governments' Digital Service guidelines e.g. security elements.</p> <p>There are no new requirements on businesses/customers for this work (only new functionality which will benefit fisheries managers such as the MMO) and as it is a requirement under EU legislation, this is a non-qualifying regulatory provision.</p>
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*Delete categories that do not apply in the reporting period

** For certain excluded categories - such as A, B, C, F and I, it is good practice to provide narrative description of any significant measures. This will help provide greater transparency and assurance that BIT exclusions are being applied consistently and appropriately