

EXPLANATORY MEMORANDUM TO
THE DECOMMISSIONING OF FISHING VESSELS SCHEME 2007

2007 No. 312

1. This explanatory memorandum has been prepared by The Department for Environment Food and Rural Affairs and is laid before Parliament by Command of Her Majesty.

This memorandum contains information for the Joint Committee on Statutory Instruments.

2. **Description**

2.1 The draft SI allows for payments to be made to decommission fishing vessels, and sets out the eligibility criteria and bid ranking system to be used. The scheme is aimed at beam trawlers affected by the days at sea scheme for Western channel (Area VIIe) sole. The objectives of the scheme are to withdraw some capacity and effort from the Area VIIe sole fishery, to help ensure a sustainable future, and to allow vessel owners to take a business decision about whether to remain in the fishery on the basis of a long-term view of prospects for the fishery under the terms of the forthcoming long term management plan. Vessels that will be eligible for the scheme come from fishing ports in Sussex, Devon and Cornwall.

3. **Matters of special interest to the [Joint Committee on Statutory Instruments *or* the Select Committee on Statutory Instruments]**

3.1 None

4. **Legislative Background**

4.1 Legislation is already in place to allow payments under the Financial Instrument for Fisheries Guidance (FIFG) (Council Regulation EC 2792/1999), The Fisheries Act 1981 and SI 1117/2001 The Fisheries and Aquaculture Structures (Grants) (England) Regulations 2001. The Fisheries Act 1981 requires a scheme to be made to make payments. Funding for the scheme outside of Cornwall will be made up of 50% from FIFG funds and 50% from Government expenditure. Due to Cornwall being an Objective 1 area (a region whose GDP is less than 75% of the Community average), it receives its own budget for FIFG payments. The Cornwall Monitoring Committee, which controls the Cornish budget, have no remaining funds in the decommissioning budget line, and have committed their budget to other areas. Therefore, permission has been granted by the Commission to fully fund from state funds any successful eligible Cornish vessel, should any apply, as it has been agreed that this does not contravene State Aid rules.

5. **Territorial Extent and Application**

5.1 This instrument applies to England.

6. European Convention on Human Rights

6.1 The Minister of State for Local Environment, Marine and Animal Welfare has made the following statement regarding Human Rights:

“In my view the provisions of the Decommissioning of Fishing Vessels Scheme 2007 are compatible with the Convention rights.”

7. Policy background

7.1 The objective of the scheme is to provide vessel owners affected by the forthcoming Council regulation establishing a long term management plan for the sustainable exploitation of the stock of sole in the Western Channel, with the opportunity to take a business decision about whether to remain in the fishery on the basis of a long-term view of prospects for the fishery under the terms of the plan. If vessel owners decide that remaining in the fishery is unviable, the scheme offers them an opportunity to bid for an amount of money that they would be prepared to accept to decommission their fishing vessels and surrender the associated fishing vessel licences.

An agreement on the principles of the long term plan was reached at the December 2006 Fisheries Council and is set out in a joint Council and Commission declaration which will be included in the minutes of that meeting. That agreement on principles still has to be reflected in a legal text of a Council Regulation giving effect to the long term plan. It is expected that agreement on this legal text will be reached in time for its adoption at the April 2007 Fisheries Council.

The current high levels of fuel prices are having a major impact on vessel profitability, especially for vessels beam trawling, the method used by vessels fishing for sole, which is fuel intensive. Even using relatively modest profit levels, it is unlikely that the South-west beam trawl fleet is operating at an acceptable rate of return at the current level of fuel prices. To achieve acceptable profits under current fuel prices, there would have to be a reduction in the fleet.

There is very little public interest in the scheme. The consultation was directed at around 60 vessel owners with an interest in the fishery, and this only elicited 6 responses. Two particular issues that were raised in response to consultation have been addressed. Concern was expressed that the current maximum payments, including age-related penalties for vessels, set out in Council Regulation 2792/1999, would make the scheme unattractive to vessel owners given the current high market value for vessels and licences. In response, permission to pay over the EU maxima was sought from the Commission; this was granted. There was also concern that the scheme might exclude vessels from Cornwall, because of their historically lower catches of sole in Area VIIe.

For the scheme to be successful there needs to be a sufficient number of applicants to make the bidding for grant fund competitive. To address this, all vessels with an allocation of days at sea in Area VIIe are eligible, although vessels with greater effort and catch of sole in that area will be ranked more highly in competitive bidding for scheme funds, with a view to securing maximum value for money and a greater chance of success for the long term plan.

There has been some attention in the fishing press, mainly reporting the position of the National Federation of Fisheries Organisations which opposes the small targeted scheme, and has been calling for a national scheme.

Figures for the total amount of money spent on the scheme, and the names of the beneficiaries will be made available on the Marine Fisheries Agency website when all grants have been paid.

8. Impact

8.1 A Regulatory Impact Assessment is attached to this memorandum.

9. Contact

Roger Mason at the Department for Environment Food and Rural Affairs Tel: 020 7270 8121 or e-mail: roger.mason@defra.gsi.gov.uk will be happy to answer any queries regarding the instrument.

DEPARTMENT FOR ENVIRONMENT, FOOD AND RURAL AFFAIRS

Decommissioning Scheme for Over 10 Metre Vessels Affected by the Western Channel (Area VIIe) Sole Long Term Management Plan

Final Regulatory Impact Assessment

1. Title of proposed measure

The Decommissioning of Fishing Vessels Scheme 2007

2. Purpose and Intended effect

(i) Objectives

The proposal is to run a decommissioning scheme for fishing vessels affected by the Western Channel (Area VIIe) sole long term management plan.

The objectives of the scheme are to withdraw some capacity and effort from the VIIe sole fishery, to help ensure a sustainable future, and to allow vessel owners to take a business decision about whether to remain in the fishery on the basis of a long-term view of prospects for the fishery under the terms of the plan.

(ii) Background

Fleet capacity is decreasing as fishing opportunities, through lack of available fish stocks, decrease. However, this reduction in capacity lags behind the reduction in opportunity. The excess capacity in the industry is bridged by illegal landings, operating at a loss, or delaying investment (or a mixture of all three). Some vessel owners cannot afford to leave the industry because of their levels of debt; others have overly optimistic expectations about fishing opportunities in the future; and others may remain in the expectation of a decommissioning scheme.

(iii) Rationale for Government Intervention

To secure sustainable exploitation of fishing stocks there is a need for the sectors of the UK fishing fleet to be more closely aligned with the available stocks that they target.

Scientific evidence shows that Area VIIe sole is near or at an historically low level, caused mainly by over-fishing. The over exploitation of fish stocks results in detrimental impacts on marine ecology.

The current high levels of fuel prices are having a major impact on vessel profitability, especially for vessels beam trawling, as this method of fishing is fuel intensive. Even using relatively modest profit levels, it is unlikely that the SW beam trawl fleet is operating at an acceptable rate of return at the current level of fuel prices. To achieve acceptable profits under current fuel prices, there would have to be a reduction in the fleet.

A narrowly focussed and closely managed decommissioning scheme offers advantages over general schemes that allow all sectors to apply. In particular, a small scheme focussed on beam trawlers who are active in the Area VIIe sole management area seems most likely to offer value for money, as the removal of capacity and effort from the sole fishery should help the management plan succeed, and

allow vessel owners to make a business decision on whether to remain in the fishery, leave the industry or diversify.

(iv) Consultation

The consultation received only 6 replies, but these included both the South Western Fish Producer Organisation, and the Cornish Fish Producers' Organisation who between them have most of the fishing vessel owners affected by the proposals in their membership. The respondents raised concerns that the tables used by the Commission in calculating relative values for vessels are out of date, and do not pay enough. Consequently, officials have sought Commission approval to pay more than the current maxima.

There was a general consensus that a decommissioning scheme would be welcomed by the industry in the South-west, provided that there was enough money to compensate vessel owners for the market value of their vessels.

3. Options

Option 1: Do nothing. This option would not meet the objective set out above. Part of the negotiations with the Commission on the introduction of a long term management plan have emphasised that running a decommissioning scheme would improve the chances of the plan being a success. It would also be inconsistent with the Minister's announcement in May 2006, that a decommissioning scheme would be run if a plan for Western channel (Area VIIe) sole was announced. If a plan for the management of the stock is not agreed the scheme will not go ahead. If a plan is announced and the scheme does not go ahead, the plan will have less chance of success. In addition to this, there will be no additional days at sea granted by the Commission in return for capacity reduction in the fishery. This aspect of the scheme is an important element for the financial viability of the vessels remaining in this fishery. This option is not discussed further.

Option 2: Open the scheme to all vessels affected by the Area VIIe sole days at sea scheme. Vessels ranked according to amount bid per tonne of capacity to be removed, with the least expensive bid ranked top.

Option 3: Open the scheme only to vessels affected by the Area VIIe sole days at sea scheme that have fished and landed any species of fish from Area VIIe in the two years immediately preceding the date of application. Vessels ranked according to amount bid per tonne of capacity to be removed, with the least expensive bid ranked top.

Option 4: Open the scheme to all vessels affected by the Area VIIe sole days at sea scheme that have fished and landed any species of fish from Area VIIe in the two years immediately preceding the date of application for the scheme. Vessels ranked in order using a system that takes into account the tonnage of the vessel, its fishing effort and catches of sole in Area VIIe in a continuous 12 month period in the two years immediately preceding the date of application, and the amount bid per tonne of capacity to be removed. This is our preferred option.

4. Estimation of Costs and Benefits

Sectors and groups affected

The scheme is targeted at beam trawlers fishing in Area VIIe with the regulated gear (beam trawls with mesh size equal to or greater than 80mm). There are 66 vessels with days at sea eligibility who applied to use beam trawl gear in the area. Of these 58 landed sole caught in Area VIIe between 1 January 2005 and 31 December 2006. These vessels were from the following ports:

Hastings	4
Brixham	24
Newlyn	22
Plymouth	7
Poole	1

Vessels with significant catches of sole, more than 10% of their overall catch by value, are predominately from Brixham and Plymouth, with only a few vessels from Newlyn and Hastings. No vessel caught more than 40% sole as a percentage of their overall catch by value.

The amount of money available for the scheme is £5 million, and it is envisaged that this will enable 8 – 10 vessels to be decommissioned.

Option 1 – no fleet sector or port affected.

Option 2 – could affect all the above ports.

Option 3 – could affect all the above ports.

Option 4 – could affect all the above ports, but a more significant effect would likely be felt by the industry in Brixham and Plymouth due to their higher catches of sole.

Costs

(i) Economic

Impact on costs to vessel owners

There are no direct financial costs for vessel owners. Part of the underlying rationale behind a scheme is that vessel owners will be able to make an informed business decision on whether a long term management plan will affect their business' viability, as the plan includes a cut in days at sea, and give them an opportunity to leave the industry. However, there are certain indirect effects on vessel owners, such as time needed to assess whether applying for decommissioning is the right business decision for them, and if it is, making an application for grant.

Option 1 – If no scheme is run, vessel owners may have to remain in the fishery even if they wish to exit, having decided that the long term prospects for the future is poor. They may have too much money invested in the business for them to stop fishing, even if the immediate future the business is not profitable.

Option 2 – Vessel owners who do not meet the basic criteria for the scheme, or are ranked too low to receive decommissioning grant, may have to remain in the fishery even if they wish to exit, having decided that the long term prospects for the future is poor. They may have too much money invested in the business for them to stop fishing, even if the immediate future the business may not be profitable.

Option 3 – As option 2 above.

Option 4 – As option 2 above.

Impact on Government expenditure

Option 1 – Not running a scheme would require no government expenditure.

Option 2 – The scheme has up to £5m available for decommissioning, and the final cost within that amount is dependent on uptake of the scheme. Funding for the scheme outside of Cornwall will be made up of 50% from Financial Instruments for Fisheries Guidance (FIFG) funds and 50% from Government expenditure. However, we have sought EC approval for payments to eligible vessels in Cornwall: as an Objective 1 area, it has its own ring-fenced budgets for administering FIFG grants, and none is available for decommissioning, therefore the UK Government would have to fund any successful bids for grant from Cornish vessels. We have also secured approval to pay more than the EU maxima for all vessels, as without this there would be very few applicants as the maxima do not reflect the current value of older vessels. This would require any successful bids over the current EU max, to be topped up with a payment coming from Government expenditure rather than EU budgets.

Option 3 – Fewer vessels from Cornwall would be eligible for this option, as few eligible Cornish vessels spend large amounts of time fishing in Area VIIe. The impact on Government expenditure (as set out in option 2) would therefore be less, as less national money would be required to pay for successful Cornish vessels.

Option 4 – Vessels from Cornwall are less likely to rank highly for this option due to their historically lower catches of Area VIIe sole. The impact on Government expenditure (as set out in option 2) could therefore be much less.

(ii) Environmental

Option 1 – This option would have an environmental cost. There would be no beneficial effects on the sole stocks, and beam trawling effort would be unlikely to reduce, therefore keeping the impact on the seabed of this method of bottom trawling at or around its present level.

Option 2 – This option would be less effective in reducing the impact on sole stocks in Area VIIe. Some of the vessels in this option, although affected by the days at sea rules, do not target sole as major part of their catch. Decommissioning these vessels would have no immediate impact on the recovery of the stock.

Option 3 – As option 2 above.

Option 4 – This option is likely to have a beneficial effect on sole stocks. A reduction in effort through decommissioning, in conjunction with a long term plan that will cut the number of days at sea a year a vessel can fish, could reduce fishing mortality.

Benefits

(i) Economic

Benefits to vessel owners

Option 1 – No economic benefit to vessel owners if a scheme is not run.

Option 2 – Any vessel owner in receipt of decommissioning grant, irrespective of the option taken will benefit from receiving the grant money, and retain the economic value of the Fixed Quota Allocations previously attached to their vessel, which can either be leased or sold. Responses to the consultation suggest that vessel owners will bid for decommissioning grant in the region of £3000 - £3500/ vessel tonne. Based on the average tonnage of vessels in this sector, a successful bid of £3500 would on average yield £325,500. However, at the top end of vessel tonnage, a successful bid could yield £1,305,500.

Option 3 – As option 2 above.

Option 4 – As option 2 above.

Benefits to Government

There is no discernable economic benefit to the Government with any of the options.

(ii) Environmental

Option 1 – There is no environmental benefit from not having a scheme.

Option 2 – The withdrawal of active vessels and the associated licences, in conjunction with a management plan that includes a cut in days at sea, should have a small beneficial effect on the marine environment, especially to stocks of sole, and as beam trawling is known to cause damage on the seabed, a positive benefit to other marine fauna and flora.

Option 3 – As option 2 above.

Option 4 – As option 2 above.

6. Small Firms Impact Assessment

The South West beam trawl fleet is made up of a combination of single vessel owners, small companies, and larger companies running over 30 vessels. The impact of either option will not adversely affect small firms, as the take up of decommissioning is entirely optional.

7. Competition Assessment

There are no competition elements to consider in any of the three options.

8. Enforcement, Sanctions and Monitoring

This proposal does not relate to enforcement activity, or introduce sanctions. However, Marine Fisheries Agency staff will visit decommissioning sites to ensure that vessels are broken up to the satisfaction of the Department. Any breach of the rules on decommissioning will require monies paid to recipients to be repaid to the department. The results of future International Council for the Exploration of the Sea advice on sole stocks in Area VIIe will show whether the long term plan has been successful, although it will be difficult to determine what part decommissioning may have played if there are improvements in stock levels.

9. Implementation

The scheme will be implemented following the agreement of the long term management plan for western channel sole which is expected at the April 2007 EU Fisheries Council

The development of a scheme requires secondary legislation, in the form of a Statutory Instrument (SI). An SI will be laid before Parliament to come into force on the common commencement date of April 6 2007, with implementation as soon as the SI comes into force. It is currently proposed that applications will be invited in May 2007, and that vessels will need to be decommissioned by November.

Guidance notes and application forms will be produced for the fishing industry setting out the rules for the scheme.

10. Summary and Recommendations

A summary of responses to the consultation is available at <http://defraweb/corporate/consult/decomm-scheme/responses-summary.pdf>

Running a decommissioning scheme for vessels affected by an Area VIIe sole long term plan will reduce capacity and further aid conservation in the fishery. It will also allow vessel owners to make a business decision about whether to remain in the fishery on the basis of a long-term view of prospects for the fishery under the terms of the long term plan.

An agreement on the principles of the long term plan was reached at the December 2006 Fisheries Council and is set out in a joint Council and Commission declaration which will be included in the minutes of that meeting. That agreement on principles still has to be reflected in a legal text of a Council Regulation giving effect to the long term plan. It is expected that agreement on this legal text will be reached in time for its adoption at the April 2007 Fisheries Council. The agreed principles involve an initial 20% cut in fishing effort in 2007 (compared to a 2005 baseline), with a further cut of 15% in 2010 if necessary, and the TAC to be set in line with the reduction in fishing mortality. The number of days at sea for 2007 for beam trawlers in the Western Channel set in the 2007 TAC & Quota Regulation (192) reflects this agreement. The long term plan is expected to be beneficial to the stock by bringing fishing effort down and, therefore, reducing risk to the stock - the longer high levels of fishing effort are maintained, the longer the risk that future recruitment to the stock may be impaired.

However, large cuts are more difficult for the industry to adjust to, so it is also proposed that account will be taken during the life of the plan for effort reduction achieved by decommissioning.

The scale and speed of the proposed change means that fishing vessel owners will have little time to adjust and a decommissioning scheme will enable this transition to a more sustainable future to take place in an orderly manner.

On the basis of the analysis set out above, a decommissioning scheme that did not aim to help the recovery of the stock would not be effective in meeting the objective of helping ensure a long term sustainable future for the stock and the fleet which depends on it. Therefore, it is recommended that option four, with a vessel ranking system taking into account the value of their bid per tonne of capacity to be removed, the fishing effort and the amount of sole caught in Area VIIe during a reference period, would offer the best value for money, and remove from the fleet those vessels that have a greater impact on sole stocks in Area VIIe. This would give all vessels fishing in Area VIIe eligibility. However, vessels with more fishing effort and higher catches of sole in Area VIIe would rank more highly. This would sit somewhere between the two main positions expressed in responses to the consultation, that only vessels that fished for sole in Area VIIe should be eligible to apply for grant,

and the opposing view that all vessels that fish in VIIe should be eligible, as they could potentially fish for sole in the future.

To be eligible, vessels will need to meet the following criteria:

- be on the UK Fishing Vessel Register and administered from an English port;
- be over 10 metres in length¹;
- be at least 10 years old;
- have fished for at least 75 days in each of the two periods of twelve months immediately preceding the date of application¹; and
- have been allocated days under the days at sea scheme for Sole in Area VIIe.

I have read the Regulatory Impact Assessment and I am satisfied that the benefits justify the costs

Signed (Responsible Minister):

Ben Bradshaw

Minister of State

Department for Environment, Food and Rural Affairs

25th January 2007

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¹ This is a requirement of the EU regulation on grant aid to the fishing industry (Council Regulation (EC) No 2792/1999)