

Department for Environment, Food and Rural Affairs

Consultation on introducing a points system for fishing vessel masters convicted of serious offences

October 2014

Contents

Section 1	1
Section 2: questions and answers	4
Q1. Do you agree with our proposal to base the number of points on the system already used for vessel licences? If not, what alternative system do you wish to see?	6
Q2. Do you agree that the appropriate sanction when thresholds are reached is for a master to be unable to act as master of a fishing vessel? If not, what sanction do you believe would be appropriate?	7
Q3. Do you agree with the periods of suspension that we have put forward? If not, what periods would you propose?	7
Q4. Do you agree that vessel owners should be required to ensure that a master they put in charge of their vessel is not currently suspended?	7
Q5. Do you think that the estimate that we have made about the number of vessels whose masters are not owners and of the familiarisation costs they are likely to incur, is reasonable? If not what do you think it should be?	7
Q6. Do you agree with our estimate of the familiarisation costs of the proposal?	8
Section 3: summary of questions	9
Section 4: the impact assessment	9
Section 5: distribution of the consultation	11
Section 6: consultation principles	11
Section 7: having your say	11
Section 8: what will happen to your responses?	12

Section 1

Scope of the consultation

Topic of this consultation:	This consultation sets out proposals for the introduction of a points system for masters of fishing vessels who are found guilty of serious fisheries offences.
Scope of this consultation:	The purpose of the consultation is to seek your views on the proposed details of the points system for masters that will apply in England, as required by EU law.
Geographical scope:	These proposals apply to all masters of English fishing vessels.

Basic information

To:	We would like to hear from the owners and masters of any English registered fishing vessel engaged in commercial fishing and from anyone interested in this issue. For this reason, in addition to individual owners and masters we are seeking the views of a number of trade bodies including the National Federation of Fishermen's Organisations (NFFO), New Under Ten Fishermen's Association (NUFTA) and United Kingdom Association of Fish Producer Organisations (UKAFPO).
Body/bodies responsible for the consultation:	This consultation is being carried out by the Compliance Policy Team in Defra's Sea Fisheries Conservation Division in liaison with the Marine Management Organisation (MMO).
Duration:	This is a 6 week formal public consultation held from the 8 October 2014.

Enquiries:	<p>During the consultation:</p> <p>FishingMasterPointsSystem@defra.gsi.gov.uk</p> <p>After the consultation:</p> <p>A summary of responses will be placed on our website at:</p> <p>http://www.gov.uk/defra</p> <p>To see consultation responses and summaries, please email</p> <p>FishingMasterPointsSystem@defra.gsi.gov.uk</p> <p>If you have any comments or complaints about the consultation process, please address them to:</p> <p>Defra Consultation Co-ordinator, Room 629</p> <p>Millbank, 17 Smith Square, London SW1P 3JR,</p> <p>or email consultation.coordinator@defra.gsi.gov.uk.</p>
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How to respond:	<p>You can respond online at www.gov.uk/defra</p> <p>You can also send responses by email to:</p> <p>FishingMasterPointsSystem@defra.gsi.gov.uk</p> <p>Or, you can post your response to:</p> <p>Fisheries Compliance Team,</p> <p>Sea Fisheries Conservation Division</p> <p>Area 8A, Millbank,</p> <p>17 Smith Square,</p> <p>London, SW1P 3JR.</p> <p>However you choose to reply, please make sure your response reaches us by 19 November 2014.</p>
After the consultation:	<p>We will summarise all responses and place this summary on our website at: www.gov.uk/defra</p> <p>This summary will include a list of names of organisations that responded but not people's names, addresses or other contact details.</p> <p>If you do not want your response - including your name, contact details</p>

	<p>and any other personal information to be publicly available, please say so clearly in writing when you send your response to the consultation. Please note, if your computer automatically includes a confidentiality disclaimer, that won't count as a confidentiality request.</p> <p>Please explain why you need to keep details confidential. We will take your reasons into account if someone asks for this information under freedom of information legislation. But, because of the law, we cannot promise that we will always be able to keep those details confidential.</p>
Compliance with the Code of Practice on Consultation:	<p>This consultation is in line with the Consultation Principles. These can be found at: https://www.gov.uk/government/publications/consultation-principles-guidance</p>

Background

Getting to this stage:	<p>We have carried out an initial consideration of how to apply a points system for masters in England. This is required by EU law (the Control Regulation¹) but the details of such a system are not specified. We have concluded that for consistency and transparency it would be most appropriate for the points system for masters to mirror as closely as possible the points system for fishing vessel licences, the details of which are specified in the Control Regulation.</p>
Previous engagement:	<p>No prior discussions have taken place between Defra and industry on these proposals. We have consulted the MMO to ensure that the system as envisaged can be implemented effectively.</p>

¹ <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2009:343:0001:0050:EN:PDF>

Section 2: questions and answers

Purpose of consultation

The purpose of the consultation is to seek views on our proposals to introduce a new system of points against masters of fishing vessels who are found guilty of serious fisheries offences.

The points system would see masters convicted in court of fisheries offences awarded a number of points, in addition to any penalties applied by the court. These points would work in a similar fashion to the points scheme that has operated for many years in the driving licence system. A series of points thresholds would lead to progressively longer periods when an individual could not act as the master of a fishing vessel. At the extreme, permanent prohibition could result. Minor fisheries infringements which do not result in conviction in court but are dealt with in other ways such as warning letters or financial administrative penalties will not attract points.

Why are the changes proposed?

The UK has already put in place a points scheme for fishing vessel licences. This system is set out in detail in the EU fisheries Control Regulation, including the offences which attract points, the number of points awarded for each offence, the thresholds that must be reached to invoke a suspension, and the duration of any suspension.

The Control Regulation also requires all EU Member States to operate a system of points for masters of fishing vessels who commit serious fisheries offences. The objective of this policy is to act as a deterrent to any master who repeatedly commits fisheries offences and to ensure that masters who have committed infringements on one vessel cannot evade the consequences of their actions by switching to another vessel. The Control Regulation does not set out the details of the points system for masters. For consistency and to aid understanding, we intend to introduce secondary legislation implementing a points system for masters that mirrors as far as possible the provisions of the points system for licences set out in the Control Regulation. As part of this system we propose to make it an offence for vessel owners to employ a suspended or permanently disqualified master.

What are the details of the proposed scheme?

Offences which will attract points and the number of points

In order to reflect the points system for licences set out in the Control Regulation, we propose that serious infringements (categories of which are set out in Table 1 below) will, following conviction in Court, attract the number of points set out below.

Table 1: Number of points assigned to masters who are convicted in a Court of a serious fisheries infringement

Serious infringement	Points
Not fulfilling obligations to record and report catch or catch related data, including data to be transmitted by satellite vessel monitoring system	3
Use of prohibited or non-compliant gear according to EU legislation	4
Falsification or concealing of markings, identity or registration	5
Concealing, tampering with or disposing of evidence relating to an investigation	5
Taking on board, transshipping or landing of undersized fish in contravention of the legislation in force	5
Carrying out of fishing activities in the area of a regional fisheries management organisation in a manner inconsistent with or in contravention of the conservation and management measures of that organisation	5
Fishing without a valid licence, authorisation or permit issued by the flag State or the relevant coastal State	7
Fishing in a closed area or during a closed season, without or after attainment of a quota or beyond a closed depth	6
Directed fishing for a stock which is subject to a moratorium or for which fishing is prohibited	7
Obstruction of work of officials in the exercise of their duties in inspecting for compliance with the applicable conservation and management measures or the work of observers in the exercise of their duties of observing compliance with the applicable Union rules	7
Transshipping to or participating in joint fishing operations with, support or re-supply of fishing vessels identified as having engaged in IUU fishing under	7

Regulation (EC) No 1005/2008, in particular those included in the Union IUU vessel list or in the IUU vessel list of a regional fisheries management organisation	
Use of a fishing vessel with no nationality which is therefore a stateless vessel in accordance with international law	7

Every time a serious infringement is committed, the appropriate number of points will be registered in the national register of fishery offences. The Marine Management Organisation has already set up a national register for the points scheme for vessel licences that went live in June 2013. We will extend this system to cover points awarded to masters. Under this proposal points will be allocated for each serious infringement to both the vessel licence *and* to the master.

Q1. Do you agree with our proposal to base the number of points on the system already used for vessel licences? If not, what alternative system do you wish to see?

Sanctions for accumulating points

Any master who accumulates 18 points will be barred from acting as the master of a fishing vessel for a period of two months. If additional convictions result in the master accumulating 36, 54 or 72 points the period of suspension will increase to four, eight and twelve months respectively. Any master who accumulates 90 points or more will be permanently disqualified from being the master of a fishing vessel. The points thresholds are summarised in Table 2.

Points will be assigned and where appropriate suspensions will take effect 21 days after sentencing and the exhaustion of any appeals process in a magistrates court or 28 days after sentencing and the exhaustion of any appeals process in a Crown Court.

Table 2: Suspension thresholds for masters who accumulate points

Points threshold	Period of suspension
18 points	2 month
36 points	4 months
54 points	8 months
72 points	12 months

90 points	Permanent suspension
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If the master is not convicted of any serious infringement for three years, all points on the master's record will be deleted. This does not apply in the case of permanent suspension.

These provisions all duplicate provisions for the points system for licences. Like that system, the points system for masters will not interfere with the discretionary power of the Court to impose penalties after assessing the facts of the case and the gravity of the infringement in question.

Q2. Do you agree that the appropriate sanction when thresholds are reached is for a master to be unable to act as master of a fishing vessel? If not, what sanction do you believe would be appropriate?

Q3. Do you agree with the periods of suspension that we have put forward? If not, what periods would you propose?

Obligations on vessel owners

We propose to make it an offence for the owner of a fishing vessel to put in charge of that vessel someone who is suspended from acting as a master. It is therefore proposed that any vessel owner engaging a new master would first have to check the register of suspended masters on the MMO website. This will result in small additional burdens to vessel owners. Fishermen check the MMO website as part and parcel of their business currently and if owners hire a new master, they can simply check their status by navigating to a different page on an already familiar website. It is estimated that this additional check would take a maximum of 10 minutes.

Q4. Do you agree that vessel owners should be required to ensure that a master they put in charge of their vessel is not currently suspended?

Q5. Do you think that the estimate that we have made about the number of vessels whose masters are not owners and of the familiarisation costs they are likely to incur, is reasonable? If not what do you think it should be?

Who might be affected by these proposals

There are approximately 3100 vessels in the English fleet. The master of any of these vessels could be affected by the points system, if found guilty of a serious offence.

However, analysis of prosecutions from 2008-2010 shows that had the system been in

place at that time, only six masters would have accumulated enough points to be permanently suspended from acting as master of a fishing vessel.

It is assumed that there are low familiarisation costs as the process is the same as the current vessel licence point system. The extension of the system to masters will be communicated by letter to all licence holders, producer organisations and fishermen's associations as well as on the MMO website and social media. Assuming that each vessel owner takes a maximum 10 minutes to familiarise themselves with this change (reading a letter) it is estimated that the one-off familiarisation cost will be £14,634. Full details of the estimated costs to business are set out in the impact assessment summary later in this document.

Q6. Do you agree with our estimate of the familiarisation costs of the proposal?

How will the proposals be taken forward?

We plan to introduce secondary legislation to Parliament in order to give a legal basis to the points system. Your response to this consultation may influence the content of the legislation. Once legislation is in place, the Marine Management Organisation will implement the system in practice.

We already operate a points system for fishing vessel licences. The system for masters will operate in a very similar way, and will make use of existing structures as far as possible. We will use existing Marine Management Organisation IT systems to record points awarded to convicted masters anywhere in the UK. This will ensure an accurate, UK-wide record, as all UK fisheries administrations will record points on this database. The single UK database will also ensure that vessel owners and operators will be required to visit only one website in order to check that a master they intend to employ is not currently suspended.

Section 3: summary of questions

Q1. Do you agree with our proposal to base the number of points on the system already used for vessel licences? If not, what alternative system do you wish to see?

Q2. Do you agree that the appropriate sanction when thresholds are reached is for a master to be unable to act as master of a fishing vessel? If not, what sanction do you believe would be appropriate?

Q3. Do you agree with the periods of suspension that we have put forward? If not, what periods would you propose?

Q4. Do you agree that vessel owners should be required to ensure that a master they put in charge of their vessel is not currently suspended?

Q5. Do you think that the estimate that we have made about the number of vessels whose masters are not owners and of the familiarisation costs they are likely to incur, is reasonable? If not what do you think it should be?

Q6. Do you agree with our estimate of the familiarisation costs of the proposal?

Section 4: the impact assessment

A consultation stage Impact Assessment has been prepared, and can be found at www.gov.uk/defra. The Impact Assessment includes Welsh and Northern Irish vessels because the SI we propose to introduce will cover Wales and Northern Ireland as well as England. It sets out the range of evidence sources we have used to review and assess the impact of the proposals outlined in this consultation.

Expected level of business impact

The estimated cost to business is made up of two elements: familiarisation costs and the costs of checking a master's points status when engaging him to master a fishing vessel for the first time.

There are nearly 4,000 vessels registered in England, Wales and Northern Ireland that are covered by the current vessel points system. All of these require a master. We estimate

that 70% of these have owners who are also masters. The one-off familiarisation costs, in year one, for all vessel owners are expected to be around £14,634, based on vessel owners taking ten minutes to read a letter from the Marine Management Organisation, detailing the new scheme.

We also estimate there will be continuing costs for owners of vessels where the owner is not also the vessel's master. Such owners will be required to check whether any master they wish to put aboard their vessel is suspended or disqualified before hiring them, at an estimated cost of £1,098 each year. This is based on conducting an additional check on the Marine Management Organisation's website, with which they are likely already to be familiar.

Taking the two cost categories together, there is an estimated cost to business of £15,731 in the first year. After the first year, the estimated cost to business is some £1,098 per year, assuming that 25% of masters are changed every year. The proportion of new masters each year is likely to be substantially lower than this assumption.

The net present cost over 10 years is £24,081. The Equivalent Annual Net Cost to Business is estimated to be £2,211.

There is no cost to business from the application of points to masters, as points will only be incurred as a result of illegal activity.

Benefit: Because of the ultimate consequence of suspension or permanent withdrawal, we believe that this proposal would act as a significant incentive to fishing masters not to re-offend and therefore contribute positively to the overall level of compliance.

Section 5: distribution of the consultation

This document has been published on the Defra website and notification sent to:

- all English vessel licence holders
- the National Federation of Fishermen's Organisations (NFFO)
- the UK Association of Fish Producer Organisations (UKAFPO)
- the New Under Ten Fishermen's Association (NUTFA)
- All Inshore Fisheries and Conservation Authorities (IFCAs)

Section 6: consultation principles

This consultation is in line with the Consultation Principles. These can be found at:

<https://www.gov.uk/government/publications/consultation-principles-guidance>

Section 7: having your say

We welcome your views and comments on the proposals. We would prefer you to respond to the consultation questions using the online survey on our consultation website :

www.gov.uk/defra

Alternatively, if you are unable to respond online you can respond:

- via email to: FishingMasterPointsSystem@defra.gsi.gov.uk

or

- in writing to: Defra, Fisheries Compliance Team, Sea Fisheries Conservation Division, Area 8A Millbank, C/o Nobel House, 17 Smith Square, London, SW1P 3JR

If you wish to obtain a hard copy of this consultation please contact us via the postal or email addresses above.

Responses must be received by 19 November 2014.

Section 8: what will happen to your responses?

We will summarise all responses and place this summary on our website at:

https://www.gov.uk/government/publications?publication_filter_option=consultations

This summary will include a list of names of organisations that responded but not people's names, addresses or other contact details.

We will also retain a copy of the responses. This is so that the public can see them. Also, members of the public may ask for a copy of responses under freedom of information legislation.

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