

<b>Title:</b> INTRODUCTION OF A POINTS SYSTEM FOR FISHING VESSEL MASTERS <b>IA No:</b> DEFRA 2173  <b>Lead department or agency:</b> Department for Environment, Food and Rural Affairs DEFRA  <b>Other departments or agencies:</b>	<b>Impact Assessment (IA)</b>		
	<b>Date:</b> 01/09/2014		
	<b>Stage:</b> Consultation		
	<b>Source of intervention:</b> EU		
	<b>Type of measure:</b> Secondary legislation		
<b>Contact for enquiries:</b> FishingMasterPointsSystem@defra.gsi.gov.uk			

<b>Summary: Intervention and Options</b>	<b>RPC Opinion</b>
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Cost of Preferred (or more likely) Option				
Total Net Present Value	Business Net Present Value	Net cost to business per year (EANCB on 2009 prices)	In scope of One-In, Two-Out?	Measure qualifies as
£0.024m	£0.024m	£0.002m	No	NA

**What is the problem under consideration? Why is government intervention necessary?**

The nature of fisheries means that there is a lack of incentive for fisherman to fish in a sustainable way. One mechanism for dealing with this is the EU Control Regulation under the Common Fisheries Policy (CFP). This sets out a control and enforcement system for ensuring compliance with the rules of the CFP. We currently have in place a points system for any fishing vessel which commits one of 12 serious infringements that break fisheries management rules (offences listed on page 4/5). Government must now intervene to implement a complementary points system for masters of fishing vessels, mirroring the same rules so that those who commit infringement on one vessel are discouraged from repeat offences.

**What are the policy objectives and the intended effects?**

The objective of the policy is to implement a similar system of points for masters of fishing vessels who commit serious infringements as are applied to vessel licences. This is complementary to the points system for vessel licences. The rules for the points system for masters are not set out in the EU Control Regulation and so we must introduce UK secondary legislation which is the subject of this impact assessment. This legislation will be applied to all vessels registered in England, Wales and Northern Ireland and therefore the analysis covers all three countries. Separate arrangements are being made to implement points for masters in Scotland.

**What policy options have been considered, including any alternatives to regulation? Please justify preferred option (further details in Evidence Base)**

Only one option is available since there is no alternative to regulation if we are to comply with EU requirements. Non-regulatory approaches are not appropriate. This option is compared to Option 0 – do nothing.

**Option 1** Under this proposal, the points system will be applied to the vessel master as well as the vessel licence. This system will apply the same level of points as at present under the existing points system for fishing vessel licences.

This policy will act as a deterrent to those masters of UK registered vessels, who consistently break the law. It is also designed to create a level playing field across the EU in order to encourage compliance. We will apply points to all UK masters and will inform other Member States when foreign masters are convicted of serious infringements committed in the UK.

**Will the policy be reviewed?** It will be reviewed. **If applicable, set review date:** 01/2018

Does implementation go beyond minimum EU requirements?			No			
Are any of these organisations in scope? If Micros not exempted set out reason in Evidence Base.		<b>Micro</b> Yes	<b>&lt; 20</b> Yes	<b>Small</b> Yes	<b>Medium</b> Yes	<b>Large</b> Yes
What is the CO <sub>2</sub> equivalent change in greenhouse gas emissions? (Million tonnes CO <sub>2</sub> equivalent)			<b>Traded:</b> n/a		<b>Non-traded:</b> n/a	

***I have read the Impact Assessment and I am satisfied that, given the available evidence, it represents a reasonable view of the likely costs, benefits and impact of the leading options.***

Signed by the responsible  
SELECT SIGNATORY:

.....  
Date .....

# Summary: Analysis & Evidence

# Policy Option 1

## Description:

### FULL ECONOMIC ASSESSMENT

Price Base Year 2014	PV Base Year 2014	Time Period Years 10	Net Benefit (Present Value (PV)) (£m)		
			Low: Optional	High: Optional	Best Estimate: 0.024

COSTS (£m)	Total Transition (Constant Price) Years	Average Annual (excl. Transition) (Constant Price)	Total Cost (Present Value)
Low	Optional	Optional	Optional
High	Optional	Optional	Optional
Best Estimate	0.015	0.001	0.024

#### Description and scale of key monetised costs by 'main affected groups'

Industry will incur minimal costs associated with this option. 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. However there is an estimated cost to business from familiarisation with the new system (£14634) and the costs of vessel owners checking if new masters have points is £1098.

#### Other key non-monetised costs by 'main affected groups'

Cost to Government is expected to be minimal as there is already a UK database of infringements which requires minor modification to include masters.

BENEFITS (£m)	Total Transition (Constant Price) Years	Average Annual (excl. Transition) (Constant Price)	Total Benefit (Present Value)
Low	Optional	Optional	Optional
High	Optional	Optional	Optional
Best Estimate	n/a	n/a	n/a

#### Description and scale of key monetised benefits by 'main affected groups'

There are no quantified benefits for this option.

#### Other key non-monetised benefits by 'main affected groups'

Because of the ultimate consequence of suspension or permanent withdrawal if a master commits serious infringement of the rules, we believe that this proposal would act as an additional significant incentive to fishing masters not to re-offend and therefore contribute positively to the overall level of compliance.

#### Key assumptions/sensitivities/risks

Discount rate (%) 3.5

Of 3973 vessels in England Wales and N.I it is estimated that 70% have owners who are also masters, therefore this option will apply to 30% or 1192 vessels whose masters are not owners. It is assumed that it will take all owners 10 minutes to read a letter familiarising them with the new system. We assume a turnover of 25% of new masters every year. Ongoing costs for owners of vessels where the owners is not the master is £1098pa. (The cost of checking if points are listed against new master).

#### BUSINESS ASSESSMENT (Option 1)

Direct impact on business (Equivalent Annual) £m:			In scope of OITO?	Measure qualifies as
Costs: 0.002	Benefits: 0	Net: 0.002	No	NA

# Evidence Base (for summary sheets)

## 1. The policy issue and rationale for Government intervention

In the absence of government intervention fish stocks will not be managed sustainably. The nature of fisheries<sup>1</sup> means that without government intervention fishermen's incentives are such that there would be a race to fish<sup>2</sup> and thus a depletion of stocks.

As fisheries are international in nature, government intervention is determined at a high level through the Common Fisheries Policy (CFP) of the European Union. Under the CFP, government intervenes in a number of ways including issuing licences which dictate where and what the industry can fish and thus manage and control the fishing industry in order to ensure England has a thriving and sustainable fishing industry.

The CFP requires member states to limit and control catch volumes and to comply with technical rules and effort schemes. The control policy is at the heart of CFP and sets out a control and enforcement system for ensuring compliance with the rules of the CFP, whose credibility depends on effective application of the control measures adopted.

The updated Control Regulation (Council Regulation (EC) No 1224/2009) addresses shortcomings identified by the European Court of Auditors in 2007 in the implementation of the previous Control Regulation. It is intended to be a more effective enforcement tool, simpler to operate and more cost effective, leading to greater compliance and consistency across member states. The Control Regulation requires Member States to apply points to vessel licences and also the masters of fishing vessels when serious infringements of the CFP occur.

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. This is the subject of this Impact Assessment.

The proposed SI will be for England, Wales and Northern Ireland. Separate arrangements are being made to implement points in Scotland. This document is to help Defra consult with industry and all comments and evidence from this consultation will be carefully considered to help validate the costs and benefits we have identified.

## 2. Policy objectives and intended effects

The policy objective is to implement a points scheme for masters of fishing vessels and to encourage all UK masters to comply with the rules of the CFP.

## 3. Policy options considered, including alternatives to regulation

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<sup>1</sup> i.e. common goods (goods from which people can't be excluded but where the resource can be depleted) and negative externalities (exists when the production or consumption of a good directly affects the businesses or consumers not involved in buying or selling it and when those spill over effects are not fully reflected in market prices. This leads to inefficient levels of fishing).

<sup>2</sup> Resulting in the tragedy of the commons

We have considered one option against the baseline of doing nothing. As these are measures resulting from illegal activity, non-regulatory options are not a possibility<sup>3</sup>.

**Option 1:** establish a system of points for masters in addition to vessel licences. This is the only proportionate option and will be an important tool in fisheries compliance and enforcement policy.

There were 3973 fishing vessels registered in England, Wales and Northern Ireland at the end of 2012<sup>4</sup>. Due to the nature of the data collected we do not hold exact information on the number of vessels where the master is not the owner but expert opinion from experienced MMO fishery officers<sup>5</sup> suggest that this is the case for around 30% (1192) of these vessels.

Where the vessel owner is also the master the suspension of the master would have no additional impact under the proposed points system as the vessel would have had its vessel licence suspended at the same time under the existing points scheme for licences. The new policy will therefore only directly impact the 1192 masters who do not own the vessel that they work on.

Q. Do you agree that around 30% of vessels have masters who are not owners? (see Q.5 in the consultation document)

To ensure that fishing rules are applied in the same way in all Member States and to harmonise the way infringements are sanctioned, the EU has established a list of serious infringements of the rules of the CFP. These are listed in table 1.

**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, transhipping 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	6

<sup>3</sup> We have discussed the options with the Devolved Fisheries Administrations and have looked at alternatives to regulation including whether we could adopt a points system for masters administratively similar to the points system for vessel licences. However the vessel system is directly enforceable (i.e. it did not need domestic legislation) as the details are set out in the Control Regulation. There are no such details for masters, meaning that they have to be set out in UK legislation. Other alternatives such as imposing licence condition on vessel owners prohibiting them from employing masters who are suspended or disqualified were considered however it was felt that the option proposed would provide a clear and transparent and legally enforceable scheme with no costs on wider industry.

<sup>4</sup> <http://www.marinemanagement.org.uk/fisheries/statistics/annual.htm>,

Section 2.2

<sup>5</sup> The MMO is the managing authority for fisheries and has dealings with the fleet on a day to day basis, and estimates from their on the ground staff with industry knowledge, is that approximately 30% of the fleet is made up of vessels whose owners employ masters (rather than acting as masters themselves which occurs in 70% of the fleet).

quota or beyond a closed depth	
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 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	7
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(MMO) has already set up a national register for the points scheme for vessel licences that went live in June 2013. Under this proposal points will be allocated for each serious infringement to the vessel licence and to the master.

Any master of a fishing vessel who accumulates 18 points will be barred from acting as the master of a fishing vessel for a period of two months. If continued offending results in the master accumulating 36, 54 or 72 points the sanction increases to suspensions of four, eight and twelve months. 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<sup>6</sup>.

**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

If the master does not commit any serious infringement for three years, all points on the master's record will be deleted. This does not apply when the master has accumulated 90 points or more.

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.

**Costs:** There are minimal costs associated with this option.

#### *Costs to Government*

<sup>6</sup> Points will be assigned and where appropriate suspensions will take effect as follows: 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

Fisheries Departments already maintain a UK database of all infringements. Implementing the measure requires only minor modifications of the database to include masters to record the points and therefore the costs of modification to current systems are therefore expected to be minimal.

### *Costs to business*

The allocation of points to the master may ultimately lead to suspension from fishing. However this is not considered to be a cost as this is a sanction for illegal activity<sup>7</sup>.

The actual costs to business can be summarised as follows:

- 1) Familiarisation costs: It is assumed that there are minimal familiarisation costs as the process is the same as the current vessel licence points system and the extension of the system to masters will be communicated by letter to all licence holders and nominees, producer organisations, fishermen associations and the Marine and Coastguard Agency (MCA). This will be accompanied by updated guidance on the MMO website and social media.
  
- 2) Time cost to vessel owners who have to check the points position of new masters.

*Familiarisation costs:* A letter setting out the changes to the legislation will be sent to a wide range of stakeholders. The cost estimated is the familiarisation cost for those whom the change of rules directly applies (i.e. vessel owners). It is assumed that it takes each vessel owner 10 minutes to read the letter and familiarise themselves with the extension of the existing rules to masters. Given the 3973 vessels this results in an estimated familiarisation cost of £14,634<sup>8</sup>.

Q: Do you agree that it will take owners 10 minutes to familiarise themselves with the extension of the current rules to include masters? (Refer Q.6 in the consultation document)

*Cost of checking the position of new masters:* The cost to vessel owners of checking new masters is expected to be minimal because the majority (2781) of vessel owners are also the vessel master. For those 1192 vessel owners who are not masters, they would only have to consult the National Register of suspended masters on the MMO website to check the status of a potential new master. We currently do not have reliable information on the number of new masters employed each year as owners do not have to register who is mastering their vessels. It is thought to be relatively small and is estimated that at most 25% of masters, who are not also masters would be changed each year (298). It is anticipated that this will result in minimal additional burdens to owners of UK fishing vessels as all commercial fishermen and vessel owners are already familiar with the MMO website. Since 2012 all fishing licence variations and notices have been published on the website about 4-6 times a month and fishermen check the website as part and parcel of their business, for any likely variation. So when owners hire a new master, they can check by clicking another link on the existing familiar MMO website.

It is estimated that it would take vessel owners no more than 10 minutes to check the status of their new master. Assuming that 25% of 1192 (298) vessel owners recruit a new master every

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<sup>7</sup> For information analysis of prosecutions for fisheries offences in English courts between 2008 and 2010 shows that for masters who were not also owners the following points would have been allocated: 1 master would have accumulated 63 points and been disqualified for 8 months, 2 masters would have reached 36 points and been disqualified for 4 months, 3 masters would have accumulated 18 points and been disqualified 2 months

<sup>8</sup> This is calculated using the ONS ASHE 2013 hourly figure for managers and proprietors in forestry, fishing and related services (£17.00) with 30% additional costs added to cover overheads (£22.10 per hour). This results in a cost of £3.68 for each vessel owner reading the letter giving a total cost of £14634.

year (which is likely to be an overestimate), it is estimated that the cost to business each year from this new system would be £1098<sup>9</sup>.

Q: Do you agree that it will take owners who are not masters 10 minutes to check the status of any new master they employ? Do you have any evidence on master turnover? Is 25% a reasonable estimate? (refer Q.5 in the consultation document)

**Table 3: summary of costs (£)**

Transition costs (familiarisation costs to business – costs of reading the letter)	14634
Average Annual Costs (costs to business of checking to see if new masters have points)	1098
Total cost over 10 years	25609
Net present cost <sup>10</sup>	24081

**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.

#### 4. Expected level of business impact

The majority of fishermen are micro/small businesses and therefore small and micro businesses are included in this regulation.

The estimated cost to business is made up of familiarisation costs and the costs of checking new masters.

The obligation for the owner of the vessel to check the status of potential new masters is straightforward and the costs are expected to be minimal. Total cost £1098 per year.

Given familiarisation costs of £14634, there is an estimated cost to business of £15731 in the first year and then £1098 per year for new master checking assuming that 25% of masters are changed every year.

The net present cost over 10 years is £24081. The EANCB is estimated to be £2211<sup>11</sup>.

There is no cost to business from the application of points to masters as points will only be incurred if the master acts illegally.

Q. If you have any additional questions on any other costs and benefits please provide evidence to support responses where relevant, on the consultation document.

<sup>9</sup> This is calculated using the ONS ASHE 2013 hourly figure for managers and proprietors in forestry, fishing and related services (£17.00) with 30% additional costs added to cover overheads (£22.10 per hour). This results in a cost of £3.68 for each master checked, multiplied by 298 vessels giving a total cost of £1098.

<sup>10</sup> This is the stream of total costs (transition costs plus annual costs) calculated over 10 years and discounted using the HMT discount rate of 3.5%.

<sup>11</sup> The Equivalent Annual Net Cost to Business (EANCB) is calculated using the methodology in the guidance (EANCB is in 2009 prices and 2010 present value base year) and uses the EANCB calculator to derive the figure (note that this measure is out of scope of OITO). EANCB = £2211



**One-in, Two-out status:** The proposal is outside the scope of the OITO as this is implementation of EU minimum standard requirement<sup>12</sup> as set out in Article 92.6 of the Control Regulation 1224/2009 for the UK to 'establish a point system under which the master of a vessel is assigned the appropriate number of points as a result of a serious infringement of the rules of the CFP committed by the master'. The points system does not interfere with the discretionary powers of the national judiciary.

## **Conclusion:**

The analysis in this impact assessment indicates that the scale of the issues involved in implementing the introduction of the points system for masters in England, Wales and Northern Ireland, are relatively small. The allocation of points and possible consequential sanction is not considered to be a cost to business as this is a sanction for illegal activity. The Regulatory Policy Committee (RPC) in its assessment of this proposal confirms this for the fast track as a low cost regulatory proposal and has confirmed its assessment as a 'Green'.

Direct costs include the familiarisation cost for those whom the change in rules directly apply (i.e. the vessel owners) and the cost to owners of confirming new masters are not currently suspended. These costs are expected to be minimal. It is assumed that there are minimal familiarisation costs as the process is the same as the current vessel licence points system. A letter will be sent to all stakeholders and the MMO website will display the guidance. The cost to vessel owners of checking new masters is also minimal because the majority of vessel owners (2781) are also masters. For those vessel owners who are not masters (1192) and if they wish to hire a new master they can check the new recruit's status on the MMO website which they are already familiar with.

The cost to industry is estimated to be £14634 from the familiarisation cost of the new requirement and £1098 per year the cost of vessel owners checking new masters status on the website.

Our preferred policy option (option 1) is the only option and a proportionate response, mirroring the existing vessel points system as closely as possible. To ensure that fishing rules are applied in the same way, the EU has established a list of infringement and allocation of points. It is intended to ensure that masters who habitually offend will face consequences and those who have committed infringements on one vessel cannot evade those consequences by switching to another vessel. If a master is a repeat offender the allocation of points may ultimately lead to temporary or permanent suspension from being able to act as a master. However, if a master receives no further convictions over a 3 year period, the points will be wiped out from his record.

All decisions on which policy option will be undertaken will take account the full range of evidence gathered through consultation.

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<sup>12</sup> Better Regulation Framework Manual July 2013, page 42