

Constitutional and Legislative Affairs Committee Report

CLA483 – The Sea Fishing (Points for Masters of Fishing Boats) Regulations 2014

These composite regulations implement requirements relating to the EU common fisheries policy. They extend to England, Northern Ireland and Wales (and partly to Scotland).

The regulations provide a points system for UK masters of fishing boats who have committed serious infringements of EU fisheries law. For example, a master who has been allocated 18 points is suspended from mastering a fishing boat for 2 months. A master who (at any one time) has 90 points is disqualified from mastering a fishing boat.

It is an offence to employ a master to master a UK fishing boat while the master is suspended or disqualified.

The regulations also provide that the Marine Management Organisation (MMO) sets up a register of UK masters, recording details of points allocated to masters.

Procedure: Composite Negative

1. Technical Scrutiny

The following points are identified for reporting under Standing Order 21.2(v) and 21.2(ix) in respect of this instrument.

Definition of “British national”

- 1.1. The definition of “British national” in regulation 2 includes 3 categories of persons. One category is ‘British citizen’ – this is not defined any further. Another category is ‘British subject’ – this is defined by reference to Part IV of the British Nationality Act 1981.

- 1.2. The meaning of British citizen can be found in Part I of the British Nationality Act 1981. It is unclear why British citizen is not defined by reference to the 1981 Act, when British subject is.

(Standing Order 21.2(v): that for any particular reason the form or meaning of the instrument needs further explanation).

Specifying the suspension start date in the register

- 1.3. Points can be allocated in respect of convictions in the UK and in respect of convictions outside the UK.
- 1.4. If points are added to the MMO register following a conviction in the UK, and this triggers a suspension or disqualification, the start date of the suspension or disqualification must be at least one day after it is included in the register.
- 1.5. However, there is no corresponding requirement if the points are added following a conviction outside the UK.
- 1.6. It is unclear why there is an inconsistency.

(Standing Order 21.2(v): that for any particular reason the form or meaning of the instrument needs further explanation).

Commencement of suspension period

- 1.7. Regulation 10 provides for different suspension periods, depending on how many points a master has accumulated. If the master has accumulated 18 to 35 points, the master is suspended for 2 months. If the master has accumulated 36 to 53 points, the master is suspended for 4 months.

- 1.8. A situation could arise where a master is serving a 2 month suspension, and during that suspension period another infringement comes to light. Conviction for that latter infringement could take the master into the territory of a 4 month suspension.
- 1.9. It is not clear from the regulations at what point in time the 4 month suspension would commence. Does the 4 month period start to run straight away (therefore overlapping with the 2 month period), or does the 2 month suspension have to be served in full first?
- 1.10. Suspension from mastering a fishing boat is taking away someone's livelihood, so clarity as to when the suspension period starts is important.

(Standing Order 21.2(v): that for any particular reason the form or meaning of the instrument needs further explanation).

English language only

- 1.11 These composite regulations are subject to parliamentary procedure at Westminster, and so are in English only.

(Standing Order 21.2(ix): the instrument is not made or to be made in both English and Welsh).

2. Merits Scrutiny

No points are identified for reporting under Standing Order 21.3 in respect of this instrument.

3. Government Response

Definition of “British national”

DEFRA Officials, when preparing this provision had agreed the definition of “British National” with the Home Office. The key definition is that set out in footnote (b), i.e. the 1972 and 1982 UK Declarations to the Final Act of the 1972 Accession Treaty (OJ No. L 73, 27.3.1972, p. 196 and OJ No. C 23, 28.1.1983, p. 1) and the Declaration attached to the Final Act of the Intergovernmental Conference on the Treaty of Lisbon, annexed to the Final Act of the Treaty on European Union (OJ 1992 No. C 191, 29.7.1992, p. 98) define “British national” for EU law purposes.

Specifying the suspension start date in the register – in relation to conviction outside the UK

Officials have consulted with DEFRA (given that this is a composite instrument) and have agreed that, whilst the same results could be achieved administratively, an appropriate amendment to Regulation 8 will be made using the next available fisheries instrument.

Commencement of suspension period

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English Language Only

These composite regulations apply to England and Wales and are subject to approval by the National Assembly for Wales and by Parliament in accordance with statutory requirements. It is therefore not considered reasonably practicable for these regulations to be laid in draft, or made, bilingually.

4. Committee Consideration

The Committee considered the instrument and Government response at its meeting 19 January 2015 and reports to the Assembly in line with the technical reporting points in section 1 above.