EXPLANATORY MEMORANDUM TO

THE FISHING BOATS (SATELLITE-TRACKING DEVICES) (ENGLAND) SCHEME 2004 No.2467

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

2. Description

2.1 The instrument provides powers for Defra to fund of the installation of tamper-resistant satellite tracking devices on English-administered fishing vessels over 15 metres overall length. It contains provisions relating to conditions for eligibility for grant aid, the making of applications, the payment of grant, the revocation of approval and the repayment of grant.

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 The statutory instrument is being made in order to provide powers to provide 100% grant aid for the installation of satellite tracking devices upon English fishing vessels over 15 metres overall length. These vessels are required by Article 22.1(b) of the Common Fisheries Policy Framework Regulation, (EC) No 2244/2003, to have such terminals on board at all times.

5. Extent

5.1 The instrument applies to vessels administered from English port offices only.

6. European Convention on Human Rights

Ben Bradshaw has made the following statement regarding Human Rights:

In my view the provisions of The Fishing Boats (Satellite-Tracking Devices) (England) Scheme 2004 are compatible with the Convention rights.

7. Policy background

7.1 The installation of satellite tracking devices on board fishing vessels is an important element of the enforcement of the CFP in order to allow the remote detection and identification of fishing vessels. The detailed rules for satellite tracking devices contained in EU Regulation (EC) No 2244/2003 require Member States to take appropriate measures to ensure that the satellite tracking devices do not permit the input or output of false positions and are not capable of being manually overridden. In order to meet this obligation UK Fisheries Departments have developed a detailed technical specification for a satellite tracking device in conjunction with an approved supplier after undergoing a competitive tendering exercise. The benefits of the installation of these devices will be to Fisheries Departments in terms of improved monitoring and surveillance of fishing vessels whilst at sea. It is therefore considered appropriate that Defra should grant aid the installation of devices on English vessels.

8. Impact

8.1 A final Regulatory Impact Assessment is attached to this memorandum.

8.2 The instrument has no direct impact upon the public sector.

9. Contact

Keith Porter at the Department for Environment, Food and Rural Affairs, Tel: 0207 270 8134 or e-mail: keith.porter@defra.gsi.gov.uk can answer any queries regarding the instrument.

REGULATORY IMPACT ASSESSMENT:

EXTENSION OF SATELLITE MONITORING OF FISHING VESSEL ACTIVITY

Title

1. Regulatory Impact Assessment on the extension of satellite-based monitoring systems for fishing vessels to be implemented through two statutory instruments: the Sea Fishing (Enforcement of Community Satellite Monitoring Measures) Order 2004 and the Fishing Boats (Satellite-Tracking Devices) (England) Scheme 2004.

Purpose and intended effect of measure

The Sea Fishing (Enforcement of Community Satellite Monitoring Measures) Order 2004

2. This instrument is in drafting and will replace The Sea Fishing (Enforcement of Community Satellite Monitoring Measures) Order 2000 (SI 2000 no 181), as amended by The Sea Fishing (Enforcement of Community Satellite Monitoring Measures) Amendment Regulations (SI 2001 no 3912), thereby enabling the enforcement of extended Community provisions on satellite monitoring.

The Fishing Boats (Satellite-Tracking Devices) (England) Scheme 2004

3. Provision is to be made to fund the purchase, installation and fitting of tamper-proof satellite position reporting terminals, procured under a public sector contract, which vessel owners elect to have fitted to British registered fishing vessels over 15 metres administered (licensed) by Defra port offices based in England.

Objective

4. To aid the enforcement of measures supporting the conservation and sustainable exploitation of fisheries resources by extending the existing provisions relating to the satellite monitoring of fishing vessels to smaller vessels, additionally requiring the provision of course and speed in each report and increasing the security and integrity of data capture and transmission.

Background

5. Since 1 January 2000 vessels over 24 metres fishing in Community waters have had to report their position by satellite every two hours to their flag state and the coastal state in whose waters they are fishing (affecting some 322 UK vessels). Vessels fishing exclusively within territorial waters (12 mile limits) and those at sea for less than 24 hours were exempt.

6. Under the provisions of Council Regulation (EC) 2371/2002 on the conservation and sustainable exploitation of fisheries resources satellite monitoring has been extended to vessels between 18 and 24 metres from 1 January 2004 (affecting around 306 UK vessels) and to vessels between 15 and 18 metres from 1 January 2005 (affecting a further 250 UK vessels).

7. Further rules were adopted on 18 December 2003 in Commission Regulation 2244/2003 laying down detailed provisions regarding satellite-based vessel monitoring systems. In view of the delay in the determination and adoption of detailed rules the Commission recognises that Member States were not able to comply with the first date of 1 January 2004.

8. The December 2003 rules contain the following provisions:

- removal of present exemptions other than for aquaculture vessels operating within baselines;
- vessels not permitted to leave port without an operating terminal (unless prior approval has been granted by the authorities, for example in order for a vessel to return to a home port for terminal repair/replacement);
- terminals to be tamper-resistant so that position data cannot be altered;
- position reports to be extended to include data on the vessel's course and speed
- Fisheries Monitoring Centres to take action if reports are not received from a vessel for 12 hours.

9. The adoption of satellite monitoring has assisted fisheries enforcement, improving surveillance of the activities of vessels over 24 metres and enabling the better deployment of fisheries patrol vessels and surveillance aircraft. By extending the requirement to smaller vessels and removing exemptions (see para 5), the measures will further assist monitoring, control and surveillance activity and with the conservation of fish stocks.

Risk Assessment

10. The enabling provisions provide UK enforcement bodies with explicit powers to take action against those contravening the conservation and control provisions laid down at Community level in the CFP regulations. Failure to implement and enforce the arrangements properly would run the risk of breaching EU law and infraction proceedings being taken against the UK.

Options

11. Three options have been identified:

Option 1 – do nothing

Option 2 – Industry pays full cost of terminal

Option 3 –Government/EU meets full cost of terminal

Benefits

Option 1 – Do nothing

12. Doing nothing is not an option. The UK has a legal obligation to implement and enforce Community measures on the satellite monitoring of fishing activity.

Option 2 – Industry pays full cost of terminal

13. The measures will improve the monitoring, control and surveillance of fishing activity and contribute to the conservation and sustainable exploitation of fish stocks in the long term interests of the fishing industry. They will also provide for

- a better return on the UK's investment in vessel monitoring systems.
- yield better quality information on fishing activity for both enforcement and scientific purposes.
- lead to greater compliance with both Community and national fisheries regulations.

Option 3 – Government/EU pays full cost of terminal

14. As for paragraph 13 but with Defra funding the purchase, installation and warranty of tamper-proof satellite position reporting terminals to all British registered fishing vessels over 15 metres administered (licensed) by Defra port offices based in England and in the UK fleet by 31 December 2004.

Costs and Benefits

Business Sectors Affected

Fisheries industry

15. The measures will affect the owners and masters of fishing vessels over 15 metres in overall length unless those vessels are used exclusively for aquaculture within the baselines of Member States.

Manufacturers of satellite terminals

16. Defra has canvassed manufacturers to ensure that the capability to supply satellite terminals satisfying tamper-proof and other requirements exists. A public procurement exercise to ensure the supply of such terminals to the UK fishing industry has been undertaken and a contract is due to awarded in September 2004.

Satellite communication providers

17. Position reports from fishing vessels will be transmitted to Defra via satellite. Those providing terminals for the UK fleet will be required to demonstrate that they will be using satellite communication providers capable of meeting UK and Community requirements with regards to the coverage of sea areas and frequency of transmission.

Issues of Equity and Fairness

18. Extension of the requirement to vessels below 24 metres provides a more even and equitable approach to enforcement, as does the extension of the enhanced provisions that will apply to those smaller vessels to vessels over 24 metres. The application of the requirement to non-EU vessels when in EU waters also prevents discrimination against EU vessels.

Costs for business, charities and voluntary organisations

Compliance costs

19. It is expected that the cost of acquiring and installing tamper-proof satellite position reporting terminals will be around £3000 per vessel, excluding VAT but including warranty. The cost for British registered vessels in the fleet by 31 December 2004 and administered (licensed) by Defra port offices based in England will be met by Defra. VAT, which is recoverable, will be paid by vessel owners. From 1 January 2005 the cost of acquiring and installing compliant terminals on fishing vessels over 15 metres will fall to the vessel owner. Industry will be required to bear the cost of communicating position reports by satellite to Defra: this cost should not exceed £400 per vessel per annum.

Costs for a typical business

20. See previous paragraph. The cost of providing satellite position reports will be a marginal addition to the operating costs of vessels over 15 metres. Provisional figures for 2003 published by Seafish in December 2003 put the typical estimated cost of operating vessels in the whitefish sector as between £265,000 and £650,000.

Small Firms Impact Test

21. Almost all businesses in the fish catching industry are small businesses. Industry has been consulted on the Commission's proposal.

Competition assessment

Fishing industry

22. The application of the requirement to all EU and non-EU vessels over 15 metres operating in EU waters eliminates the scope for adverse impacts upon competitiveness.

Manufacturers of satellite terminals

23. An open tendering procedure has allowed manufacturers to compete against common criteria in submitting tenders for provision of tamper-proof terminals eligible for Defra funding.

Satellite communication providers

24. No restrictions are being placed on satellite communication providers, other than that their systems must be capable of interfacing with Defra's fisheries monitoring centre, of covering all sea areas in which UK vessels fish and meeting EU reporting frequency requirements.

Enforcement and sanctions

25. The Fisheries Departments in the UK and the Scottish Fisheries Protection Agency currently spend some £25 million per year on the enforcement of fisheries regulations. Enforcement takes place on land, in the air and at sea with a high level of integration. The number of land-based inspectors, fisheries patrol vessels and aircraft deployed on fisheries control and enforcement work in 2002 was:

	No of inspectors	No of patrol vessels	No of aircraft
England & Wales	66	9	2
Scotland	79	5	2
Northern Ireland	12	2	0
Total	157	16	4

In total carrying out some 50,902 inspections on land, 2450 boardings at sea and 25145 sightings of fishing vessels by surveillance aircraft.

26. Satellite position reports are used to

i. assist with the efficient and effective deployment of fisheries enforcement resources;
ii. verify information provided by fishermen in logbooks and landing declarations; and
iii. enforce areas closed to particular types of fishing and/or all fishing vessels.

In addition satellite position data contribute towards scientific research in stocks and fish stock assessment and can be provided to the Maritime Coastguard Agency for safety at sea purposes.

Penalties of up to £50,000 are provided for non-compliance with the satellite monitoring requirements.

Monitoring and review

27. The operation of satellite monitoring, including industry compliance, will be kept under review by the Fisheries Departments and their inspectorates.

Consultation

Within Government

28. UK policy in relation to the adoption and implementation of detailed rules has been agreed by Defra and the other Fisheries Departments in the UK. The Small Business Service has also been consulted in the preparation of this RIA.

Public Consultation

29. Vessel owners and interested organisations have been kept informed of the development of detailed rules for extending satellite-based vessel monitoring systems. Fishermen and their respective organisations have pressed for the cost of fitting tamper-proof terminals to be met from public funds. Other respondents have generally welcomed the new measures.

Summary and Recommendation

30. To proceed with the extension of satellite monitoring to all vessels over 15 metres and to fund the purchase, installation and warranty of tamper-proof terminals fitted to British registered vessels administered by Defra port offices in England in the UK fleet by 31 December 2004.

Declaration

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

Signed by responsible Minister Ben Bradshaw

Ben Bradshaw
Parliamentary Secretary (Commons) –
Minister for Nature Conservation and Fisheries

Date 8th September 2004

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