

Regulatory Impact Analysis (RIA) of a Bill to amend the Sea-Fisheries & Maritime Jurisdiction Act 2006 for the purpose of addressing matters arising from a Supreme Court judgment dated 27 October 2016

Summary of RIA

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Department/Office: Agriculture, Food & the Marine		Title of Legislation: Draft General Scheme of the Sea-Fisheries (Amendment) Bill 2016	
Stage: General Scheme of Bill		Date: 17 November 2016	
Related Publications:			
Available to view or download at: http://www.agriculture.gov.ie			
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What policy options have been considered?			
1. Prepare and enact the proposed Bill			
2. Do nothing			
Preferred Option: 1			
OPTIONS			
	COSTS	BENEFITS	IMPACTS
1	N/a	Continuation of the existing arrangements and relationship with Northern Ireland	Positive impact on North-South and East-West Relations
2	N/a	None	Negative impact on North-South and East-West Relations

Description of Policy Context and Objectives

The London Fisheries Convention 1964 allowed that each Coastal State could assert exclusive fishing rights within 6 nautical miles from its baselines (Article 2). It also provided for contracting parties to allow those fishermen from another coastal state who had habitually fished within that belt to continue to do so by reason of Voisinage arrangements (Article 9). On this basis, pre-existing reciprocal arrangements were re-affirmed at the time by means of an exchange of letters in the 1960s between the UK/Northern Ireland and Ireland which allowed for vessels from Northern Ireland to fish within Ireland's 6 nautical mile zone and vice versa. The Common Fisheries Policy (Article 5 of Regulation 1380/2013) provides for the continuation of such neighbourhood arrangements.

The Supreme Court, in its judgment dated 27 October 2016, determined that fishing by Northern Ireland vessels within the 0 to 6nm zone of the territorial waters of the State is not permitted by law. It is important to note that the Supreme Court upheld the High Court finding that the Voisinage arrangements are not invalid but that, as it stands, there is insufficient provision in domestic law for them.

In light of the Supreme Court judgment, fishing by Northern Ireland vessels in Irish territorial waters is unlawful. The application of the judgment is to all fishing by Northern Irish fishing vessels in the 0-6nm zone relying on the Voisinage Arrangements; fishing activities which have a legal basis (reliant on access arrangements to Ireland's 6-12nm zone in the EU Regulation 1380/2013) are not affected.

The objective of the Bill is to address the judgment by enacting legal provisions for the continuation of the pre-existing arrangements.

Identification and Description of Options

The options available are:

1. Prepare a Bill to provide a legal provision for the arrangements as described above or
2. Do nothing

The Do nothing option would prohibit Northern Ireland registered sea-fishing boats fishing within Irish territorial waters and would be contrary to the Voisinage arrangements which were made under the provisions of the London Fisheries Convention and are acknowledged in the Common Fisheries Policy and may have consequences for reciprocal access for Irish register sea-fishing vessels and is therefore not considered a viable option.

Analysis of Costs, Benefits and Impacts for ALL Options

As the Bill seeks to continue pre-existing arrangements and there is no policy change, no associated costs arise.

a) National competitiveness

No change

b) The socially excluded and vulnerable groups

The arrangements apply to fishing in the 0-6 nautical mile zone of the territorial waters; this area is

particularly important to the inshore, small-scale coastal fishing fleet in both jurisdictions and accordingly the communities which dependent on those fleets for economic activity would be most likely to experience adverse effects.

c) The environment

No change.

d) Whether there is a significant policy change in an economic market, including consumer and competition impacts

No change in existing policy.

e) The rights of citizens

The continuation of the arrangements maintains the existing rights of citizens.

f) Compliance Burdens

No change.

g) North-South and East-West Relations

The continuation of the arrangements will have a positive impact on North-South relations and facilitates continued co-operations in areas identified in the British-Irish Agreement of 1998 (fisheries and aquaculture).

Consultation

Consultation to date has included the fisheries control authorities in the State and the Department of Agriculture, Environment and Rural Affairs in Northern Ireland.

Enforcement and Compliance

Following enactment of the Bill, responsibility for enforcement of the arrangements will continue to rest primarily with the fisheries control authorities, the Sea-Fisheries Protection Authority and the Defence Forces.

Review

The Sea-Fisheries and Maritime Jurisdiction Act 2006 already provides that the Sea-Fisheries Protection Authority report to the Minister on the performance of its functions (so long as to do so is not prejudicial to the performances of its functions). The SFPA's annual report is the standard regular means of reporting on compliance with sea-fisheries and seafood safety law.

Publication

This RIA will be published on the Department's website following publication of the Bill.