



Designation of Auction Centres and Registration of Buyers and Sellers of First Sale Fish

A new scheme is being introduced that will require buyers and sellers of first sale fish and shellfish landed into the UK to register with Fisheries Departments. It will also require the designation of auction centres and fish markets at which such fish is sold.

Fisheries Departments have established a joint implementation advisory group with stakeholders to provide advice on implementing the new scheme.

This guide has been produced with the aim of providing informal, non-statutory guidance for businesses of what is required of them in order to register (whether a fish auction centre, or as a buyer or seller of fish), submit sales notes and maintain appropriate records of first sale fish.

This guide is advisory and does not have any legal status. Ultimately, only the courts can decide whether, in particular circumstances, an offence has been committed

Background

Those engaged in the buying and selling of fishery products must comply with a number of regulations at both Community and National level. These include European and domestic regulations setting out marketing standards for fisheries products.

Article 9 of Council Regulation (EC) No 2847/93 ("the Control Regulation" - as amended) requires relevant information relating to the landing, first marketing and sale of fishery products in the Community to be submitted to the competent authorities in a Member State. These documents are commonly referred to as 'sales notes'. The Regulation requires sales notes to be provided by authorised sellers of first sale fish when sold through designated (registered) auction centres or markets or by buyers for all other forms of sale. Under Article 9 of the 1993 regulation and Article 22(2) of Council Regulation (EC) 2371/2002 ("the Framework Regulation"), the seller and buyer of first sale fish are required to be registered with the competent authorities in the Member State concerned. Currently, buyers and sellers of first sale fish are required to submit sales notes to the Fisheries Departments in accordance with Article 9 of the 1993 Regulation, but no UK authorisation system is in place. These requirements are to be enforced under The Registration of Fish Buyers and Sellers Regulations.

More recently, annexes III and IV of Council Regulation 27/2005 ("the 2005 TAC Regulation") contain requirements for the weighing of pelagic species, cod and Western Channel sole. As part of the designation process those

responsible for auction sites will be asked what, if any weighing facilities are available in their premises. This is to help the Fisheries Departments assess the availability of weighing facilities and to ensure that weighing requirements can be met.

The intended effect is to improve the monitoring and control of landings of fish taken from Community and other waters and to ensure that such landings are properly recorded and capable of verification. The measures will also assist consumers and those involved in secondary processing or distribution of fish to be satisfied about the provenance of fish and that it has been legitimately caught.

The Registration of Fish Buyers and Sellers Regulations 2005 apply in England. Separate but similar law applies in Scotland, Wales and Northern Ireland.

Timetable

| | | |
|------------------|--|--|
| 1 June 2005 | Registration and designation process opens | UK wide |
| 24 June 2005 | Closing date for pelagic buyer applications | Scotland |
| 1 July 2005 | Pelagic buyers registered and required to submit sales notes and maintain records under the new rules | Scotland |
| 1 July 2005 | Closing date for all other applications | England, Scotland and Northern Ireland |
| 1 September 2005 | Existing auction sites required to be designated | England, Scotland and Northern Ireland |
| 1 September 2005 | Submission of sales notes and maintenance of records under new rules by all buyers and sellers | England and Northern Ireland |
| 1 September 2005 | Submission of sales notes and maintenance of records by buyers and sellers (except direct sales of shellfish including nephrops) | Scotland |
| Early 2006 | Submission of sales notes and maintenance of records by buyers of direct shellfish (including nephrops) sales | Scotland |
| Early 2006 | Registration and designation process to be completed | Wales |

Guidance

The guidance has been provided in the form of answers to specific questions under the headings below. Standard forms are included as annexes.

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Designation of Auction Centres and Fish Markets

The Regulations require sales information to be provided by authorised sellers of first sale fish when sold through designated (registered) auction centres or markets

Q.1 What is a designated market?

It's a site where fish are auctioned by competitive bidding and which has been designated by any of the Ministers in the UK under the relevant regulations. Designated markets will have a designation number issued by the Fisheries Departments. If a site does not have the necessary designation number, it is not a designated market. Lists of designated auction centres/markets (and of registered buyers and sellers) will be publicly available via Fisheries Departments websites.

Q.2 How is a market designated?

By application to, and subject to the approval of, the relevant Fisheries Department in the country in which the site is located. Application forms and explanatory leaflets are available from the relevant Department, Fisheries Departments' websites or from your local fishery office.

Q 3 Who is responsible for applying for designation?

It is up to those responsible (whether they are individuals, partnerships, companies or corporate bodies) for the premises involved to apply for designation. The application form asks you to supply details of a "responsible person" who will liaise with the Fisheries Department on matters related to the application.

Q.4 Does all fish have to be sold on a designated market?

No. It will still be possible for fish to be sold off-market, via direct sales or consignments. In these circumstances, however, fish may only be sold to a registered buyer and the buyer will be responsible for submitting the sales note information to the Fisheries Department.

Q.5 Does this apply to inland wholesale markets?

Yes. The regulations apply to all sites or premises where fish is sold, for the first time, by competitive bidding at auction including, if appropriate, inland markets. If no sales take place at a market by competitive bidding the premises do not have to be designated. If first sale fish is sold other than by auction – even in designated market premises - then the transaction comprises, in effect, a direct sale (so the buyer needs to be registered and to submit the sales note to the Fisheries Department).

Q.6 Are there any conditions that must be met for a market to be designated?

No pre-qualifying conditions are proposed. However, there will be conditions attached to designation which will include, for example, a requirement for the market to be approved, and to continue to be approved, by the local authority under fish hygiene regulations. Applicants seeking designated status for their auction premises will also be asked what weighing facilities are available in their premises.

Q.7 Do those responsible for designated markets have to provide weighing equipment?

No. There is no obligation on those seeking designation to weigh fish or provide weighing equipment.

Q.8 Can a designation be removed?

Yes. The legislation permits the option (in addition to provisions for fines etc) for Fisheries Ministers or the courts to remove or suspend designated status for a market if there is found to have been a breach of regulations.

Q.9 Will there be a restriction on the hours of operation of a market?

No. The times at which auctions are to be conducted at designated markets will be subject to notification and approval by the Fisheries Departments on an individual basis. But it will be possible to amend these times either on a permanent or ad hoc basis (for example to provide for exceptional circumstances or a “one-off” auction) subject to appropriate notice being given to the local fisheries office. It is not the intention to restrict the arrangements whereby fish can be landed into markets, stored and prepared for sale at any time during the day.

Registration of Buyers and Sellers

Under Article 9 of the Control regulation and Article 22(2) of the Framework Regulation, the seller and buyer of first sale fish are required to be registered with the competent authorities in the Member State concerned.

Q.10 Who has to register?

You need to be registered as a seller if you wish to sell on a designated market/auction centre by competitive bidding – but not if you only sell direct (i.e. other than through competitive auction) to registered buyers.

You need to register as a buyer if you buy first sale fish direct from a vessel or agent (ie other than from a registered seller at a designated auction site) unless you are buying for personal consumption – see Q.22. You do not need to register as a buyer if you only ever buy at auction from a registered seller.

Q.11 Who do I have to register with?

You must register with the Fisheries Department in the country, or countries, in which you intend to operate as a registered buyer and/or seller of fish. If you want to operate in, say, both England and Scotland, you will need to be registered in both. This can be done using a single application form – see Q.14.

Q.12 Do wholesalers, fishmongers, friers and restaurants making local direct purchases from fishermen have to register as buyers?

Yes.

Q.13 Are there any eligibility criteria for registration?

No, but there will be conditions attached to approval/registration – for example that you must keep appropriate records relating to sales/purchases of first sale fish and make them available for inspection when required.

Q.14 Is there a registration form?

Yes. You can get one, and explanatory leaflets to help you through the application process, from your Fisheries Department, Fisheries Departments websites or ask at your local fishery office. You will only have to make one application to your home Department but you will receive written notification separately from each of the Fisheries Departments within whose territory you indicate that you wish to operate..

Q.15 What information is required?

All the information requirements are set out in the application form and explanatory leaflets. In summary, the Fisheries Departments need to know

your personal/company details, where you plan to operate as a buyer/seller of fish and where your records will be kept.

If an application is to be made on behalf of a partnership, company or corporate body you will need to provide supporting documentation (Certificate of Incorporation, list of company directors and proof of your authority to sign on behalf of the company).

In all cases proof of name and address will be required.

Q.16 Is there a deadline for registration?

Application forms (for initial registrations) should be returned to the Fisheries Departments by 1 July 2005 – unless you are acting as a buyer/seller of pelagic fish in Scotland, in which case an earlier deadline of 24 June applies.

Q.17 Does the registration limit where I can buy or sell fish from?

You can only operate as a registered buyer or seller of first sale fish in the country in which you are registered (if you are only registered in Scotland, for example, you cannot legally operate as a registered buyer/seller in England, Northern Ireland or Wales). Buyers and sellers will need to register in each individual country within the United Kingdom in which they operate. If you only sell first sale fish in Scotland then you will only need to register with SEERAD. However, if you also operate in Northern Ireland then you will need to indicate this on the application form. The Fisheries Department which receives your application will pass it to any other Fisheries Departments indicated on the form for consideration. A separate application form does not need to be completed.

Q.18 Do foreign buyers have to be registered?

Yes, if they buy in the UK other than through a designated fish market/auction from a registered seller. If all purchases are made from a designated auction centre then the buyer will not have to register with the UK authorities.

If fish is transported out of the UK prior to first sale, different control arrangements (requirements for transport or takeover documentation) apply. Please contact your local Fishery Office for further information.

Q.19 Do foreign buyers have to have a registered office in the UK for retaining records?

All registered buyers will be expected to nominate a UK address where they will keep records of fish purchases. If they cannot supply a UK address then they will be required to submit their records to the Fisheries Departments for audit at least once each calendar year and within 28 days of receiving a request from a Fishery Officer.

Q.20 I buy and sell fish. Do I have to register twice?

If you operate as both a buyer and a seller of fish as described above, then you need to register for both purposes. The registration application forms and process are designed so that you can apply for both at the same time/on the same form.

Q.21 Some companies employ several buyers. Does the company register or each individual buyer?

Each legal entity within the parent group/company will need to register. If the company is structured as a single legal entity with different 'branches' in many ports then the organisation need only register once. If, on the other hand, each branch has its own legal identity and buys and/or sells fish in their own right then they each need to register.

Company employees can only apply for registered status in their own right if they are buying or selling fish in a personal capacity and not on behalf of their employer.

Q.22 Is there any exemption from the registration process?

If you purchase small quantities of fish for private consumption you will not have to register as a buyer.. "Private consumption" is defined in the legislation as consumption of fish other than for trade or profit or in the course of business. It is intended to cover, for example, a small quantity (a 'fry') of fish bought (at first sale) by an individual for consumption by family or friends but not, say, fish bought by a pub owner for sale as meals in a bar or restaurant. This exemption for "private consumption" only applies to purchases of less than 25kg in any day. *If you buy more than this you will have to register and submit sales notes.*

Fishery products for which the sales information is required

Article 9 of the Control Regulation requires relevant information relating to the landing, first marketing and sale of fishery products in the Community to be submitted to the competent authorities in a Member State.

Q.23 Is the sales information required for shellfish?

Yes, sales information is required for all fish and shellfish.

Q.24 Is aquaculture included?

No, the arrangements apply to sea fisheries: aquaculture is not included.

Q.25 Is the sales information required for sale from all fishing vessels landing in the UK including those from other Member States or third countries?

Yes. The requirements relate to all first sales of fish in the UK, whether landed from a boat registered/licensed in the UK, another EU Member State or a third country.

Q.26 Is the sales information required for the sale of fish transported to the UK in containers?

No, not if the fish has been landed in another country before being containerised for shipment. However fish landed by carrier vessels which has been transhipped at sea from catching vessels is covered by these arrangements.

Q.27 If a UK registered vessel lands in another Member State and transports the catch for first sale in the UK is the sales information still required?

Yes.

Q.28 Is the sales information required for shellfish that have been hand gathered?

No, hand gathered shellfish is excluded from these requirements. However, Fisheries Departments will consider this area when the scheme is reviewed in 2 years time.

Requirements for sellers of first sale fish on designated markets

Q.29 What information has to be provided to Fisheries Departments?

Registered sellers are required to provide the Fisheries Departments with sales notes for all first sale fish they sell at a designated market/auction centre. Detailed information requirements are set out in the seller's sales note at Annex 1.

Sales notes have to be returned to the relevant Fisheries Department within 48 hours of the sale taking place.

Q.30 Can the information be provided electronically?

Yes. You can send sales notes to the Departments by e-mail or fax. Each Fisheries Department website will also have sales notes available which you can complete and either email or post to the Fisheries Department.

Q.31 What sales information must be retained and made available for inspection?

Registered sellers will be required as a condition of registration to keep records relating to first sale fish including:

- Date and location of each sale;
- Quantities and price by species of all fish sold;
- Name and PLN of the vessel(s) which landed the fish;
- Name and address of the buyer(s) of the fish;
- The reference number of the sales contract/invoice..

Q.32 For how long must sales records be kept?

For 2 calendar years after the end of the calendar year in which the sale takes place.

Q.33 Will a combined sales note and landing declaration continue to be permitted?

A landing declaration must be completed for all landings and is the responsibility of the vessel master. (EU regulations allow a vessel agent to complete the landing declaration on the master's behalf, but the vessel master remains responsible for the information supplied.) The landing declaration must cover all of the species landed.

However, a registered seller can only provide a sales note for the catch which they have sold at auction, which may not cover all of the required information relating to the landing.

The landing declaration and the sales note must be identifiable and adequate for their separate purpose – if that can be achieved on the one document we

have no objection to that. However it will probably be simpler and easier to prepare separate documents.

Q.34 Will the submission of sales information be required for second sales on a market?

No. The arrangements relating to the registration of buyers and sellers apply only to first sale fish.

Requirements for sellers of first sale fish by direct sale

Q.35 Who can fish be sold to if not at a designated market?

The sale of first sale fish by direct sale should only be to a registered buyer. An exception to this is when fish is bought for private consumption. The exemption from registration for “private consumption” only applies to purchases of less than 25kg in any day

Q.36 Wholesalers, fishmongers, friers and restaurants may be put off purchasing from local fishermen by the requirement to provide sales information. Can this be made more straightforward for the buyer?

Fisheries Departments have prepared sales notes templates which are available on their websites. There is nothing to stop fishermen completing these on behalf of their customers. However, the responsibility for the accuracy of the sales note would remain with the registered buyer.

Q.37 How will the requirements apply to fish which is landed and stored frozen until sale at a subsequent date?

In cases where fish are stored prior to sale at a later date, a takeover declaration should be submitted by the vessel master or their agent within 48 hours of the landing. Further information is available from your Fisheries Department or local Fishery Office. A sales note must be submitted by either the registered seller or buyer, depending on how the sale takes place, when a sale actually occurs.

Requirements for buyers of first sale fish

Q.38 When are buyers required to provide sales notes to Fisheries Departments?

Buyers are required to provide sales notes for all purchases of first sale fish (other than those excluded under the “private consumption” provisions) other than purchases from registered sellers by auction at a designated market/auction site. So all direct sales require a “buyers” sales note to be provided within 48 hours of the buyer receiving all the necessary information to complete the sales note.

Q.39 What sales information has to be provided to Fisheries Departments?

The information requirements are set out in the buyers sales note at Annex 2.

Q.40 What if I don't have all the information required?

You must make all reasonable attempts to collect the information required. That includes, if necessary, obtaining relevant information from a third party (such as the master or agent of the vessel that landed the fish).

You will be responsible for the accuracy of the information it contains. However, it will be a defence in any prosecution related to the provision of false information to show that you took reasonable precautions and exercised due diligence so as to avoid the commission of the offence.

Q.41 What purchase information must I retain and make available for inspection?

As a registered buyer you will be required to keep records relating to purchases of first sale fish including:

- Date and location of each purchase;
- Quantities and price by species of all fish bought;
- Name and PLN of the vessel which landed the fish;
- Name and address of the seller of the fish;
- The reference number of the sales contract/invoice; and
- Where appropriate, the registration number of the seller.

Q.42 For how long must I keep sales records?

For 2 calendar years after the end of the calendar year in which the sale takes place.

Enforcement

Q.43 How is this to be enforced?

In the same way as other fisheries regulations – by British sea fisheries officers and with those suspected of breaching regulations subject to suspension of registration/designation and/or prosecution through the criminal courts.

Q.44 Are these requirements being applied in other Member States?

The EU rules apply to all Member States. How they are being implemented in each is a matter for the Member State concerned. Of course the arrangements for the marketing of fish in other countries may differ from arrangements in the UK. In some, for example, fish may only be sold through auction centres.

Q.45 If a business has buyers and or sellers at several locations and one is found to be in breach of the regulations will withdrawal of registration apply to all the other ports at which it has registered?

Withdrawal or suspension of registered/designated status would reflect the entry in the relevant register. So if a company is, say, registered as a seller and successfully prosecuted, the company's registered status could be at risk.

Further information

Application forms and further information can be obtained from the local Fishery Office, Fisheries Department or websites.

England www.defra.gov.uk
020 7 270 8131/8260

Scotland www.scotland.gov.uk
0131 244 4980

Wales www.countryside.wales.gov.uk/fisheries
02920 825111

Northern Ireland www.dardni.gov.uk
02890 520100

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