

Landing obligation

What is the landing obligation?

A key element of the reformed Common Fisheries Policy (CFP), effective 1 January 2014, is the progressive elimination of discards in EU fisheries through the introduction of the new landing obligation. The landing obligation is effectively a ban on discarding fish overboard.

The landing obligation will apply only to stocks subject to Total Allowable Catches (TACs), as well as Mediterranean stocks subject to Minimum Landing Sizes (MLS).

Although the landing obligation is not enforceable on non-EU countries fleets which are regulated by their own national laws, or by RFMOs, the EU will address this by developing specific derogations for non-EU vessels fishing in EU waters.

Under the landing obligation skippers will be obliged to land all commercial (quota) species they catch. The switch to a 'land-all' policy will inevitably require changes to the way quota is managed, and to the way some skippers operate. Quotas will now represent an entitlement to catch a set amount of a particular fish stock, rather than simply land a set amount, while all catches must be landed.

To help ensure that the landing obligation is workable, particularly in a mixed fishery context, a number of flexibilities are contained within the legislation. The landing obligation constitutes a new way of managing EU fisheries and making it work for every part of the fleet will require a great deal of effort by both industry and government.

When will it be introduced?

The landing obligation will be introduced in fisheries of interest to the UK fleet from 2015 onwards, and will be introduced for all fisheries covered by the CFP by 2019.

Firm dates have been set. The landing obligation is to be phased in fishery by fishery, starting with pelagic stocks on 1 January 2015, followed by demersal stocks (defined by fishery) on 1 January 2016, with the remainder between 2017 and 2019 (for the full list see the [Basic Regulation](#)).

A new regime

This constitutes a new regime in European fisheries management and making this work for every part of the fleet will require a great deal more work – for both industry and government – to prepare to implement the landings obligation.

This briefing note explains what is meant generally by the landing obligation and the legislative framework surrounding it, and the issues it is raising for the seafood industry.

A separate note explains the introduction of the landing obligation for pelagic fisheries, effective 1 January 2015, in more detail.

<http://www.seafish.org/responsible-sourcing/conserving-fish-stocks/discards/discards-under-cfp-reform>

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Does everything have to be landed?

The answer is no, not everything, there are some exemptions and there is also a number of uncertainties surrounding the current legislation that require further clarification. In the following sections we highlight some of the key exemptions and flexibilities contained within the legislation, and discuss some of the associated uncertainties and implications.

Stocks not subject to TACs

The landing obligation only applies to catches of those stocks where a TAC is set (generally the most important commercial fish stocks), plus Mediterranean stocks which are subject to minimum landing sizes. TACs are currently shared between EU Member States under a system called 'relative stability' which helps ensure that national quota allocations remain stable in relation to each other, even when the total quantity of fish that can be caught varies with the productivity of the fish stocks. Therefore, key stocks such as scallops, crab and lobster are not subject to the landings obligation.

High survivability

This exemption is for 'species for which scientific evidence demonstrates high survival rates, taking into account the characteristics of the gear, of the fishing practices and of the ecosystem'. Research has shown that not all discards die when returned to the sea and that in some cases, the proportion of discarded fish that survive can be substantial. Survivability depends on species, fishery and other technical, biological and environmental factors. Exemptions may therefore be possible for species when best scientific evidence

available demonstrates that the unwanted catch has a high survival rate on return to the sea.

There needs to be agreement on what proportion of live returns would constitute a 'high survival rate' or what evidence would be acceptable in determining survival rates.

De minimis

The de minimis exemption is intended to provide some flexibility for fleets who can demonstrate that either 1) scientific evidence shows that selectivity cannot be improved or that 2) handling unwanted catches would involve disproportionate costs. This is a limited exemption of up to 5% of the total annual catch, with its application intended to be used only in exceptional cases, however it remains to be seen to what extent it will be invoked within the various discards plans. To help Member States fleets adjust during the transition period, the de minimis exemption will be 7% of total annual catch in years one and two, 6% in years three and four, and 5% thereafter.

There currently appears to be several ways of interpreting the de minimis rule i.e. what exactly is 5% of total annual catch – is it 5% of the TAC for a vessel, or a fleet, or a Member State for a given stock (i.e. 5% of its quota), or could it be 5% of a vessel or a fleet or a Member States total annual catch of all species for the year in question? Also, exactly what constitutes scientific evidence? What constitutes disproportionate costs? The details have to be clarified and are likely to be left to the individual Member States or the relevant bodies drawing up the discard plans to propose and/or define.

TAC uplift

The regulation states that “Subject to scientific advice and without jeopardising the objectives of MSY and without increasing fishing mortality, when a landing obligation including documentation of catches is in operation, an increase of related fishing opportunities is foreseen, to take into account that fish previously discarded will be landed.” There is therefore an expectation that under the landing obligation, the quota for a number of stocks will experience ‘uplift’ as the discards component can be included in what would become a catch quota rather than the current landings quota. ICES has already provided advice on what a total catch may amount to for some, but not all, quota species in the North Sea.

The level of quota uplift to provide a catch quota rather than a landing quota (the additional quota permitted to take into account the discard ban) is currently unknown and will vary by species.

Choke species

A choke species is the first species for which quota would run out (assuming no further quota is available through either purchase or lease) for a vessel or group of vessels operating in a mixed fishery context, ‘choking’ the fleet and forcing it to tie up. To help mitigate the potential negative economic consequences of choke species, fisheries managers may look to invoke the de minimis exemption and or may look to invoke one or more of the quota flexibilities available under the legislation. The mechanism for doing so and the order in which it can be done requires further clarification from the competent authorities.

The least plentiful quota allocation will ‘choke’ the mixed fishery. Ultimately it will be the responsibility of the fisher or the fisheries managers to plan for the best use of their quotas

Quota flexibility

Some quota flexibility has been introduced to help match catch to available quota, to make the obligation to land all catches workable and to mitigate the effect of varying yearly catch compositions. Member States are allowed to transfer up to 10% of quotas between years. In addition, and perhaps most importantly, there is provision for Member States to count up to 9% of the catch of non-target species against the principle target quota, if the non-target species is within safe biological limits.

It has to be clarified whether this 9% provision can be applied across all non-target species, or to specific by-catch components i.e. the choke species.

Data issues

The new regulation places heavy new burdens on science to provide: discard data to justify the level on TAC uplift in specific fisheries; scientific evidence to support definitions of species with high survival rates (plaice and *Nephrops* fisheries are potential examples) to justify or deny an exemption on the grounds of high survival; data to justify use of the de minimis exemption in cases where improvements in selectivity are difficult or where the costs are disproportionately high; how discarded species could be documented.

A range of fisheries/science partnerships to provide discard data will be needed.

Content and structure of future regional discard plans

The ultimate aim is that Member States' discards policy will be incorporated into comprehensive fisheries level Multi Annual Management Plans. Member States have co-operated at a regional level (e.g. North Sea, North West Waters) and agreed a common approach to discards, in the form of pelagic discard plans for each fishery. Discard plans for demersal fisheries will follow in 2015. Agreement on discard rates and the criteria to be used for high survival exemptions etc. will be incorporated into these discard plans.

If Member States fail to develop their own discard plan, the Commission has the power to step in to impose their own discard plan.

Technical Measures

The discard ban will create a powerful incentive for fishers to minimise unwanted catch, in order to save quota for species/sizes with most value. Over and above this, the Commission is revising its Technical Conservation Regulation (EC 850/98).

The Commission has brought forward an 'Omnibus' regulation which seeks to amend seven regulations in parallel so as to bring them into line with Article 15 of the basic CFP regulation.

Markets

There are a whole host of issues created by the potential volume of discards that could be landed onshore - how to handle them.

Defra has been working with industry on the logistics of how to handle the fish that cannot be used for human consumption, and how to

improve markets for edible, under-utilised species through the Fishing for the Markets initiative,

What is being done to sort all this out?

The European Commission has asked the Scientific, Technical and Economic Committee for Fisheries (STECF) to look into issues surrounding the landing obligation. STECF has set up an expert working group to look at the scientific and economic effects of the implementation of the landing obligation. STECF has subsequently produced a number of recommendations, reviewed discard plans and highlighted a number of challenges that need addressing:

- Defining management units (e.g. stocks, areas, fisheries) and how discard plans could possibly be submitted for different combinations of area, species, stock, catching method, vessel type and other relevant aspects of the fishing activity.
- Dealing with third countries (e.g. Norway).
- Defining Minimum Conservation Reference Sizes (with no clear objective, but with major implications for the marketing of the catch and the economics of catching businesses).
- Develop the criteria to evaluate discard plans (Impact Assessment indicators).
- Outlining a process for developing discard plans.
- The effect of exemptions and deminims on control, enforcement and compliance levels.

Stakeholder activity

There is substantial change ahead but crucially there is also flexibility on how to deliver the landing obligation, which has created a lot of discussion at local, regional, national and international level about the UK pathway to the landing obligation which is consistent with the provisions of the CFP basic regulation, but also takes full advantage of the quota flexibilities that are available.

A new process of decentralised decision making is underway and pelagic discard plans have been produced for the North Sea and the North West Waters.

At a national level the devolved administrations are undertaking a detailed analysis of these new provisions to determine exactly what has to be done, by when, who needs to be involved, what are the options and the respective roles and responsibilities.

DEFRA published a consultation in early 2014 on the options to implement CFP reform, to seek views on how best to make these reforms work in practice. This consultation covered the pelagic sector and a similar exercise will be undertaken in early 2015 for the demersal sector.

At a national, regional and local level the various membership bodies that represent fishermen are actively canvassing for:

- greater stakeholder engagement between Government and fishermen;
- a flexible approach to the way that discards are managed;
- a focus on sustainable fishing whilst reducing fish mortality;

- a continuance of the downward trend in discards whilst at the same time ensuring that fishermen are able to operate their businesses in a viable manner;
- more knowledge about the increase in TACs and how this will be managed.

Fishing industry

There are a number of steps that the fishing industry will be able to take to manage 'unwanted catch' where it occurs under the new rules by:

- greater stakeholder engagement between Government and fishermen;
- using selective gear and other methods to minimise catch of undersized fish or unwanted fish where possible;
- moving away from gear selectivity based on legislative requirements, to a much more flexible and adaptable approach focused at individual vessels;
- managing quota to help match it to catch – at national level, within Producer Organisations, and at vessel level, with the ability to swap and/or lease quota.

What Seafish is doing?

Seafish is working on a number of fronts to try to mitigate or reduce the impact of some of these problems.

Seafish has done a considerable amount of work over the years on gear selectivity, and we are in the process of building an easily accessible database where all this information is available and hopefully informative for those vessels looking to improve their selectivity.

We completed an economic impact study to determine the likely and potential economic impacts of a discard ban on the Irish Sea *Nephrops* trawl fleet, and two North Sea fleet segments: mixed whitefish trawl and the *Nephrops* trawl in early 2014. The results from these cases studies were fed back to industry and government. A full scale UK-wide Economic Impact Assessment is now underway and is due to be completed by the end of March 2015.

Seafish commissioned a [study](#) to identify commercially available bulk uses or outlets for discards that may be landed, and then assess the feasibility of accessing these bulk outlets. Also just published is a new study to determine the possibility for using all (or part) of the discarded fish currently generated by the English fishing fleet, for [pot bait](#).

Finally, we facilitate a specialist [Discard Action Group](#) (DAG) which is working collaboratively with stakeholders to propose potential solutions and possible routes forward using these, and other, data. In particular DAG is working across the supply chain to facilitate discussion to help develop a pathway to a landings obligation that is practical and workable for the UK seafood industry.

Sources

<http://register.consilium.europa.eu/doc/srv?l=EN&t=PDF&gc=true&sc=false&f=ST%201207%202013%20INIT&r=http%3A%2F%2Fregister.consilium.europa.eu%2Fpd%2Fen%2F13%2Fst12%2Fst12007.en13.pdf>

<http://nffo.org.uk/responsible-fishing/discard-reduction>

http://ec.europa.eu/fisheries/cfp/fishing_rules/discards/index_en.htm

<http://stecf.jrc.ec.europa.eu/reports/discards>

For further information

See: <http://www.seafish.org/responsible-sourcing/conserving-fish-stocks/discards> and for a summary of stakeholder activities to move to a landing obligation **see:** <http://www.seafish.org/responsible-sourcing/conserving-fish-stocks/discards/discards-under-cfp-reform>

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